

6, 1952

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INSTITUTE OF ADVANCED
LEGAL STUDIES

10251

In the Privy Council.

ON APPEAL

FROM THE COURT OF APPEAL OF THE COLONY
OF SINGAPORE, ISLAND OF SINGAPORE.

Singapore Originating Summons No. 23 of 1947.

IN THE MATTER of a Japanese Decree made in O.S. No. 24
of 2605 (A.D. 1945) in the Japanese Court of the Judge at
Syonan (Singapore) on the 18th of June 1945

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and

IN THE MATTER of the Japanese Judgments and Civil
Proceedings Ordinance 1946.

BETWEEN

THE SULTAN OF JOHORE

Appellant

AND

1. ABUBAKAR TUNKU ARIS BENDAHAR
2. HERBERT WALTER COWLING
3. GEORGE HERBERT GARLICK

Respondents.

Case for the Respondents.

RECORD.

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1. This is an Appeal from an Order of the Court of Appeal of the High Court of the Colony of Singapore dated the 1st November, 1949 (made pursuant to leave granted by that honourable Court by Order dated 23rd January, 1950), dismissing with costs the Appellant's appeal from an Order dated the 7th April, 1949, of the High Court of the Colony of Singapore. By the said Order dated the 7th April, 1949, Mr. Justice Gordon Smith dismissed with costs the Appellant's application made in Originating Summons No. 23 of 1947, of which the Respondents are the Applicants and the Appellant is the Respondent, for an Order that two earlier Orders of the Court made on the said Originating Summons, dated 30th June, 1947, and 15th August, 1947, respectively, and all proceedings thereunder be set aside and that all further proceedings against the Appellant in the said Originating Summons be stayed on the ground that the said Court had no jurisdiction over the Appellant who is a Sovereign Ruler.

p. 59.
p. 1.
p. 25.
p. 28.

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2. By their Originating Summons the Respondents applied to the High Court for an order that a Decree made on the Appellant's application

during the Japanese occupation of Singapore by a Japanese-appointed Judge at Singapore be set aside or that the Respondents be at liberty to appeal against this Decree, on the grounds that the Decree had been obtained by the Appellant in the absence of the Respondents and of other necessary parties, that it was based on principles unknown to the existing laws of the Colony, and that it was erroneous and bad in law.

p. 148.
p. 134.

p. 138, ll. 2 to 5.

p. 138, ll. 6 to 13.

3. The Japanese Decree was obtained by the Appellant on an Originating Summons taken out by him on the 3rd May, 1945, at Singapore. By this Summons the Appellant prayed that the Court might order that certain lands and hereditaments in Singapore, which the Appellant had settled upon his family, including the First Respondent, should "revert" to the Appellant, and that the land records of Singapore should be rectified accordingly. The Appellant made the Japanese Custodian of Enemy Property the Respondent to this Summons, apparently on the ground that the interests which would be affected by the order of the Court included those of the First Respondent, that the First Respondent and his family had left Malaya on the occupation of that country by the Japanese, and that they were regarded as enemies by the Japanese. 10

p. 148.

pp. 143 to 147.

p. 147, l. 12.

4. On the 18th June, 1945, Mr. M. V. Pillai, the Japanese-appointed Judge at Singapore, made an order purporting to grant to the Appellant the relief which he sought. In the course of his judgment the Judge noted the attitude of the Japanese Custodian :— 20

"His Excellency the Mayor of Syonan (Singapore) was represented by his Deputy Custodian of Enemy Property and the attitude which he takes is this: in his view this is a prima facie enemy property and as such the Custodian can dispose of it in any manner that he thinks fit and proper."

The Judge said that it was the wish of the Custodian that the Appellant's claim should be decided according to Mohammedan Law. Although, as the Judge recognised, the rule was well-established in Singapore that claims to immovable property in Singapore must be decided according to English law, whether or not the owners were Mohammedans, he conceived that he was bound to inquire whether the settlements made by the Appellant were valid according to Mohammedan law, and to set them aside if they were not. He decided that the settlements were invalid according to Mohammedan law and he ordered that the settled properties should revert to the Appellant as sole beneficial owner. He concluded his judgment with these words :— 30

p. 147, l. 41.

"In conclusion I may add that sitting as Judge I have to carry out the policy of the Military Administration in its true spirit according to the present conditions. And it is not for me to anticipate what may happen in future under different conditions." 40

p. 81, l. 33.

The Appellant extracted the Court order made by Mr. Pillai and registered it against the lands in question.

5. The facts relating to the administration of justice in Singapore during the Japanese occupation can be stated shortly. On the surrender of Singapore in 1942 all the former Judges of the Supreme Court of the

Straits Settlement, Settlement of Singapore, were interned, and the Supreme Court was closed. In May, 1942, the Japanese Military Administration caused the Courts to be re-opened. The name of the Supreme Court was changed to "The Syonan Kotohoin." A former Judge of the Supreme Court of the Federated Malay States was appointed Judge of this Court. On the death of this Judge in 1943 Mr. Pillai was appointed in his place. The practice and procedure of this Court during the Japanese occupation were identical with the practice and procedure of the Supreme Court of the Straits Settlement, except that cases in which either or both parties were Japanese were tried by a Japanese Judge according to Japanese law and procedure.

6. The Respondents' application to the High Court was made under the provisions of the Japanese Judgments and Civil Proceedings Ordinance, 1946, and of the Rules made under that Ordinance. Section 3 of the Ordinance is in these terms :—

“ 3. (1) Any party to the proceedings in which a Japanese decree was made or given or any person aggrieved by such decree may, within three months from the commencement of this Ordinance, or within such extended time as the appropriate Court may allow, apply in the prescribed manner to the appropriate Court for an order—

- (A) that such decree be set aside either wholly or in part ; or
- (B) that the applicant be at liberty to appeal against such decree.

(2) Upon the hearing of an application under the provisions of sub-section (1) of this section the appropriate Court may, subject to the provisions of this section, make such order or orders thereon, as in the circumstances of the case, may seem fit.

(3) No Japanese decree shall be set aside on the ground that the person or persons constituting the Court whose decree is in question was or were not appointed in accordance with the provisions of, or did not possess the qualifications specified in, the existing laws.

(4) Without prejudice to the generality of the provisions of sub-sections (2) of this section, a Japanese decree may be set aside on any of the grounds following :—

(A) that it was obtained as a result of such force or threat of force, injury or detriment to any party to the proceedings or other person as in the opinion of the appropriate Court was sufficient to render the action of the party in relation to the proceedings involuntary ;

(B) that any necessary party did not appear personally but was represented by any person appointed by any Japanese authority ;

(C) that it was based on principles unknown to the existing laws, or

(D) on any other ground which the appropriate Court considers to be sufficient.”

7. The Rules made under the Ordinance provide that applications to set aside a Japanese Decree or for liberty to appeal against it shall be made by Originating Summons.

8. On the 14th April, 1947, the Respondents took out their Originating Summons under the Ordinance.

pp. 25 to 26.

9. On the 30th June, 1947, the Chief Justice of Singapore ordered that the Respondents be at liberty to issue a Concurrent Originating Summons and to serve notice of the same on the Appellant then living in London at the Grosvenor House Hotel, and that notice thereof be served upon Dato Haji Mohammed Said and Mohammed Ismail, both of Johore Bahru, the Appellant's attorneys, and that the Appellant's time for entering an appearance be forty days after service. 10

pp. 28 to 29.

10. On the 15th August, 1947, the Chief Justice of Singapore ordered that the Order of the 30th June, 1947, be varied by providing that service of the Respondents' Originating Summons be effected by serving notice of the Concurrent Originating Summons upon the Appellant in accordance with the said Order, and by serving notice of the same together with a sealed copy of the Order of the 15th August, 1947, by sending the same by prepaid registered post in a cover addressed to Dato Haji Mohammed Said and Mohammed Ismail, the Appellant's attorneys. 20

p. 35.

11. On the 8th October, 1947, the Appellant by Messrs. Sisson and Delay, his solicitors at Singapore, entered a conditional appearance to the Respondents' Originating Summons.

p. 36.

12. On the 11th October, 1947, the Appellant's solicitors took out a Summons to set aside the Orders of the 30th June, 1947, and the 15th August, 1947, and all proceedings thereunder including service of the Respondents' Originating Summons pursuant to the Order of the 15th August, 1947, and praying that all further proceedings against the Appellant might be stayed on the ground that

“the Honourable Court has no jurisdiction over His Highness Sir Ibrahim the Sultan of Johore who is a sovereign ruler.” 30

p. 59.

p. 60.

p. 72.

13. On the 7th April, 1949, Mr. Justice Gordon Smith ordered that the Appellant's Summons be dismissed with costs. On the 25th April, 1949, the Appellant appealed from the Order of Mr. Justice Gordon Smith. On the 1st November, 1949, the Court of Appeal of the Colony of Singapore (The Honourable Mr. Charles Murray Murray-Aynsley, Chief Justice of Singapore, The Honourable Sir Harold Curwen Willan, Chief Justice of the Federation of Malaya, and The Honourable Mr. Laman Evan Cox-Evans) dismissed the Appellant's appeal.

p. 130.

p. 133.

14. On the 23rd December, 1949, the Appellant filed a Petition in the High Court for a certificate that the case was a fit one for appeal to His Majesty in Council. On the 23rd January, 1950, the Chief Justice of Singapore made an Order certifying that the case was a fit one for appeal and granting to the Appellant leave to appeal. 40

15. The main questions raised by this appeal may be stated thus :—

(A) Upon the assumption that the Appellant is an Independent Sovereign Ruler, is he entitled to an Order staying the proceedings on the Respondents' Originating Summons? If he is,

(B) Has the Appellant established that he was an Independent Sovereign Ruler at the date when the Respondents took out their Originating Summons, or, if it is material, at the date when the Appellant took out his Summons to stay the proceedings on the Respondents' Originating Summons or at any later date.

10 16. On the first question the Respondents contend that even if the Appellant is an Independent Sovereign Ruler, the High Court has jurisdiction to entertain the Respondents' Summons and that it ought not to stay the proceedings thereon. The Respondents say, first, that by his application to the High Court at Singapore during the Japanese occupation the Appellant consented to the jurisdiction of any Court which then had or might thereafter have the power to set aside the judgment given on the Appellant's application or to entertain appeals therefrom. They say that the Appellant cannot, by claiming immunity from the jurisdiction of the High Court at Singapore, defeat the right of the
20 Respondents to apply to that Court under the 1946 Ordinance for an Order setting aside the judgment in favour of the Appellant or granting them leave to appeal therefrom. They say that the present proceedings concern the title to, and the rights of beneficial ownership in respect of, land within the Colony of Singapore, not claimed to be the public property of any State, that even if the Appellant is an Independent Sovereign Ruler he cannot claim immunity from the process of the High Court in such proceedings, and that the High Court, notwithstanding the Appellant's objection, has jurisdiction to grant the Respondents the relief which they seek. They say that in any event they have rightly served the Appellant
30 with notice of their Originating Summons as he is a person who may be adversely affected by an Order made by the High Court on this Summons.

17. On the second question the Respondents contend that the Appellant has not established that he was an Independent Sovereign Ruler at the date when the Respondents took out their Originating Summons, or when the Appellant took out his Summons to stay the proceedings on the Respondents' Originating Summons, or at any later date.

18. The facts relating to the property in dispute are stated in paragraph 19 of this Case, and the facts relating to the Appellant's claim
40 to be treated as an Independent Sovereign Ruler are stated in paragraph 20.

19. (a) Before December, 1903, the Appellant was the legal and beneficial owner of two plots of land and the buildings thereon situate in Singapore. p. 136.

(b) By an indenture dated the 1st December, 1903, the Appellant conveyed these lands to his wife Rugiah in consideration of the natural love and affection which he bore to her. pp. 7 and 8.

p. 4, l. 38.
p. 5, l. 5.

(c) On the 26th March, 1926, Rugiah died intestate. The First Respondent, as the only lawful son of Rugiah, was entitled to three-fourths of the deceased's estate, and the Appellant to one-fourth.

p. 4, l. 4.

(d) On the 19th July, 1926, the First Respondent was granted letters of administration of the estate of Rugiah.

pp. 10 to 12.

(e) By an indenture dated the 22nd December, 1926, executed by the First Respondent and the Appellant, the First Respondent, as settlor conveyed his three-fourths' share of the said lands, and as personal representative of Rugiah the entirety of the said lands, to the Appellant to hold upon the trusts declared in the instrument, and the Appellant declared 10 that he would stand possessed of the entirety of the said lands upon the said trusts. The said trusts were for Tunku Zahrah, the eldest daughter of the First Respondent, during her life, and after her decease, in default of issue, for the persons entitled to share in her estate according to Mohammedan Law if she had died intestate and unmarried.

p. 5, l. 17.

(f) On the 1st March, 1939, Tunku Zahrah died, an infant intestate, and unmarried.

p. 5, ll. 19 to 25.

(g) Under Mohammedan Law the First Respondent was entitled to a five-sixths' share in the estate of Tunku Zahrah and the First Respondent's wife, Ungku Fatemah, was entitled to a one-sixth share. 20

p. 5, ll. 25 to 29.

(h) On the 23rd January, 1940, letters of Administration of the estate of Tunku Zahrah were granted to the First Respondent.

pp. 14 to 17.

(i) By an indenture dated the 28th June, 1944, the first Respondent and his wife, Ungku Fatemah, conveyed their shares in the estate of Tunku Zahrah to S. H. Shirazie, Tan Chin Chuan and John Laycock to hold as trustees upon the trusts declared in the indenture.

pp. 18 to 20.

(j) On the 12th April, 1947, the Second and Third Respondents were appointed as trustees of the settlement of the 28th June, 1944, in place of the trustees named therein.

pp. 53 to 55.

20. (a) On the 9th June, 1948, before the hearing of the Appellant's 30 Summons, the Secretary of State for the Colonies addressed a letter to Mr. Justice Brown, a Justice of the High Court of Singapore, dealing with the Appellant's status as Sultan of Johore. In this letter it was stated that His Majesty's Government recognises the Appellant as the ruler of the State of Johore and that "as such he exercises attributes of sovereignty." The letter explained that the State of Johore is a member of the Federation of Malaya under the Federation of Malaya Agreement, 1948, made between His Majesty the King and the Rulers of the Several States in the Federation, including the Appellant. Under this Agreement legislative power over a wide range of subjects is conferred upon a federal legislature consisting of a 40 High Commissioner, appointed by His Majesty, and of the Rulers of the member States, acting with the advice and consent of a federal Legislative Council. The Executive authority of the Federation is substantially vested in the High Commissioner. The Agreement provides for a federal citizenship, while recognising the continuance of the status of subjects of the Ruler of any of the States. The residual legislative power is vested in the legislatures of the States. The agreement provides that in State matters laws are to

p. 54, ll. 1 and 2.

be made by the Council of State and require the Appellant's consent. Executive authority in the State is vested in the Appellant. Under the Johore Agreement, 1948, made between His Majesty and the Appellant the Appellant undertakes to accept the advice of a British Adviser on all matters connected with the government of the State other than the Moslem religion and the custom of the Malays. His Majesty has complete control of the defence and external affairs of the Federation and the State. The Johore Agreement, 1948, provides that the Appellant's prerogatives, powers and jurisdiction within the State shall, subject to the provisions
 10 of that Agreement and the Federation of Malaya Agreement, 1948, be those which the Appellant possessed on the 1st December, 1941. The Federation of Malaya Agreement provides that save as expressed therein that Agreement shall not affect the sovereignty and jurisdiction of the Rulers in their several States. The Secretary of State's letter, after setting out these provisions of the two Agreements, concludes thus :—

“ The independence of the State of Johore and the sovereignty of its Ruler, the Sultan as recognised in the case of *Mighell v. the Sultan of Johore*, to which reference is made in the communication under reply, are thus subject to the limitations consequent upon
 20 fresh rights and obligations under the Agreements of 1948, and generally upon the position of the State as a member of the Federation of Malaya.”

(b) On the 12th November, 1948, the Secretary of State addressed a further letter to Mr. Justice Brown dealing with the status of Johore before the making of the two Agreements of 1948 referred to in (a) above. The relations between His Majesty and the Appellant were regulated by two Agreements, one dated the 11th December, 1885, and the other dated the 12th May, 1914. Under the 1914 Agreement the Appellant agreed to receive an accredited British Adviser whose advice he was obliged to ask
 30 and act upon on all matters affecting the general administration of the country and on all questions other than those touching Malay religion and custom. On the 20th October, 1945, an Agreement was made between His Majesty and the Appellant under which His Majesty was given “full power and jurisdiction within the State and territory of Johore.” In exercise of this jurisdiction His Majesty made provision for the government of Malaya by the Malayan Union Order in Council, 1946, and by Royal Instructions dated the 27th March, 1946. The provisions of this Order which were brought into operation provided for the establishment of a
 40 Union of the Malay States, including Johore, and for their administration and government by a Governor of the Union appointed by His Majesty. The Order reserved to His Majesty full power to legislate by Order in Council for the peace, order and good government of the Union. The letter dealt expressly with the Appellant's status under the Agreement of October, 1945, and under the Malayan Union Order in Council, 1946 :—

“ His Majesty's Government, however, recognise that the Sultan of Johore possessed sufficient sovereignty in and over Johore to enable him to make on behalf of himself and his successors in the Sultanate the Johore Agreement, 1948, providing for the future government of Johore as a Member State of the Federation of
 50 Malaya.

p. 58, ll. 20 to 33.

It will be observed, therefore, that under both the provisions of the Order in Council which came into operation and the permanent regime which never took effect, the position of Johore as an independent State and the sovereign powers of the Sultan were materially affected by the incorporation of the State in the Malayan Union and generally by the situation brought about the Agreement of the 20th October, 1945; but that the State retained its identity and the Sultan continued to possess certain attributes of sovereignty."

21. By his judgment delivered on the 7th April, 1949, 10
Mr. Justice Gordon Smith held—

p. 52, ll. 35 to 38.

(i) that by the Agreement of the 20th October, 1945, and the Malayan Union Order in Council, the Appellant had lost his former status of an Independent Sovereign Ruler,

p. 52, l. 4 to p. 53,
l. 8.

(ii) that under the two 1948 Agreements the Appellant had regained his former status and was entitled to the immunities usually accorded to an Independent Sovereign Ruler,

p. 52, ll. 9 to 12.

(iii) that the Appellant had submitted to the jurisdiction of the High Court by presenting his Originating Summons in 1945 and obtaining a decree thereon, and

p. 52, ll. 13 to 16.

(iv) that the Respondents' Originating Summons was not a new proceeding but a continuation of the proceedings begun in 1945.

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He therefore dismissed the Appellant's Summons to set aside the Respondents' Summons and stay the proceedings thereunder.

22. By a letter dated the 13th July, 1949, addressed by the Secretary of State to the Appellant, the Secretary of State referred to the judgment of Mr. Justice Gordon Smith in these terms :—

p. 62, ll. 28 to 30.

" This is taken to mean that you are an independent sovereign (subject to the limitations mentioned by the judge). His Majesty's 30
Government, of course, accept the ruling."

The Secretary of State explained the meaning of this letter in a further letter dated the 20th August, 1949, addressed to the Chief Justice of Singapore :—

p. 72, ll. 9 to 12.

" It was not intended to convey more than that His Majesty's Government accepted the decision of the Court, which I believed was not being further contested, and the letter was not intended to affect the decision of any higher court before whom the question might come on appeal."

pp. 73 to 80.

23. The grounds of judgment of the Chief Justice of Singapore 40
dismissing the Appellant's appeal may be summarised as follows :—

p. 73, l. 39 to p. 74,
l. 4.

(i) His Majesty's Courts cannot treat any person as an Independent Sovereign Ruler unless he is recognised as such by His Majesty's Government.

(ii) An unqualified statement on behalf of His Majesty's Government that His Majesty recognises a person as an Independent Sovereign Ruler is the only evidence of that fact which His Majesty's Courts will receive. p. 76, ll. 14 to 16.

(iii) There was no such statement in the present case. p. 73, ll. 25 to 29.

The Chief Justice expressed the view that if the Appellant was immune from the jurisdiction of the Court he had not submitted to that jurisdiction on the ground that the parties to the Respondents' Originating Summons were not the same as the parties to the Summons on which the Appellant had obtained his Decree in 1945, that the High Court in 1948 was not the same Court as that which had granted the Decree, and that the proceedings on the Respondents' Originating Summons were not the same as the proceedings on the Appellant's Originating Summons. p. 78, l. 30 to p. 79, l. 9.
10 p. 79, ll. 32 to 46.

24. The grounds of judgment of the Chief Justice of the Federation of Malaya, dismissing the Appellant's appeal, are summarised in the following passage of his judgment :— pp. 80 to 108.

20 “ Accordingly I hold that the Sultan by instituting proceedings in the Japanese Court submitted to the jurisdiction of that Court ; that by virtue of the Japanese Judgments and Civil Proceedings Ordinance, 1946, the proceedings brought by the Trustees in the High Court of the Colony of Singapore are a continuation of the proceedings instituted by the Sultan in the Japanese Court, and therefore the claim by the Sultan of immunity from the jurisdiction of the High Court of the Colony of Singapore fails.” p. 106, l. 18.

In the course of his judgment the Chief Justice rejected the Respondents' contentions that the date of the Appellant's Summons, namely the 11th October, 1947, was the material date at which to determine the Appellant's status, and that the Court could not hold that the Appellant was at that date or at any other date an Independent Sovereign Ruler unless there was a conclusive certificate showing recognition by His Majesty's Government. The Chief Justice examined the provisions of the two 1948 Agreements. He held that there was nothing in the Johore Agreement, 1948, “ which negatives the independent sovereignty of the Sultan.” He said that he could find nothing in the Federation of Malaya Agreement, 1948, “ which destroys the independent sovereignty of the Sultan.” p. 95, ll. 29 to 31.
30 p. 98, ll. 1 to 2.

25. The grounds of judgment of Mr. Justice Evans, dismissing the Appellant's appeal, may be summarised as follows :—

40 (i) The High Court has jurisdiction to try any action concerning land within the Colony of Singapore, at least when the land is not claimed to be the public property of a foreign State. p. 125, ll. 17 to 19.
p. 129, ll. 14 to 15.

(ii) The present proceedings are concerned with land within the Colony of Singapore and which is the subject only of a private and personal claim of the Appellant. p. 129, ll. 31 to 34.

(iii) The Appellant is therefore subject to the jurisdiction of the High Court in respect of these proceedings. p. 129, ll. 34 to 35.

p. 120, ll. 15 to 18.

This learned Judge was apparently prepared to accept the Respondents' contentions that a claim to immunity from jurisdiction could in no case be established unless His Majesty's Government made an unqualified statement that the claimant was recognised by His Majesty as an Independent Sovereign Ruler. He said that he was not satisfied that the Appellant was recognised by His Majesty as an independent Sovereign but added that it was unnecessary for him to decide the case on this point.

p. 78, ll. 1 to 8.

26. The Chief Justice of Singapore observed that grave difficulties might arise if suits for land within the jurisdiction did not form an exception to the principle that Independent Sovereign Rulers were immune 10 from the jurisdiction of the Courts. He said that the present case was only incidentally concerned with land and for that reason was not within the exception, if the exception existed. The Chief Justice of the Federation of Malaya was not prepared to hold, in the absence of any English authority, that this exception existed.

27. The Respondents submit that this appeal should be dismissed for the following (amongst other)

REASONS

- (1) BECAUSE the Appellant has submitted to the jurisdiction of the High Court by commencing proceedings to obtain 20 the Japanese Decree, by obtaining that Decree, and by seeking to carry that Decree into effect by registering it against the land in question.
- (2) BECAUSE the Appellant cannot defeat the Respondents' rights under the Japanese Judgments and Court Proceedings Ordinance, 1946, and cannot affect the powers and duties of the High Court under the Ordinance, by claiming immunity from the jurisdiction of the High Court.
- (3) BECAUSE the Respondents have rightly served the 30 Appellant with notice of their Originating Summons as the Appellant is a person who may be adversely affected by an Order made by the High Court on this Summons.
- (4) BECAUSE the present proceedings are concerned with the title to, and the rights of beneficial ownership in respect of, land within the Colony of Singapore, and because the land is not claimed to be the public property of any State.
- (5) BECAUSE the Appellant has not established a right to be treated as an Independent Sovereign Ruler either at 40 the date when the Respondents took out their Originating Summons, or at the date when the Appellant took out a Summons to stay proceedings on that Originating Summons, or at any later date.

- (6) FOR the reasons given by Mr. Justice Gordon Smith, so far as these reasons were in favour of the Respondents.
- (7) FOR the reasons given by the Judges of the Court of Appeal, so far as these reasons were in favour of the Respondents.

B. MACKENNA.

IAN C. BAILLIEU.

In the Privy Council.

ON APPEAL

*from the Court of Appeal of the Colony of Singapore,
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BETWEEN

THE SULTAN OF JOHORE *Appellant*

AND

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2. HERBERT WALTER COWLING
3. GEORGE HERBERT GARLICK *Respondents.*

Case for the Respondents

PEACOCK & GODDARD,
Dacre House,
5 Arundel Street,
London, W.C.2,
Solicitors for the Respondents.