

THE SUPREME COURT OF THE MALAYAN UNION

REGISTRAR'S CIRCULAR NO.16/1947.

JAPANESE JUDGMENTS AND CIVIL PROCEEDINGS ORDINANCE

There appears to be some difficulty and lack of uniformity in the application of Section 5 of the Japanese Judgments and Civil Proceedings Ordinance. Assistant Registrars have power under Rule 17 to make orders in uncontested matters. But however there may be cases where on the facts as disclosed in the application, a substitution in the exact terms of the Japanese grant cannot be made by reason of the fact that the circumstances under which the Japanese grant was issued have now changed, or that fresh facts are now disclosed. In such cases, the Assistant Registrar will be within his powers if he orders a substitution with the necessary appropriate modifications so that the new grant when it issues will really be in the form in which the Court would have issued it had there been a direct petition made to it on the facts as they exist now. Section 5(4) of Ordinance 29 of 1946 does not require that the grant made in substitution should be in exactly the same terms as the Japanese grant.

The following are some examples where the Registrar or Assistant Registrar should act in the manner indicated above:-


- (a) Where a Japanese grant of Probate was issued to two executors and one is now dead, an Assistant Registrar can order Probate to issue in favour of the surviving executor.
- (b) Where a Japanese grant of Probate was made of a copy of a Will, the original being then missing, and where the original (which may have been brought from abroad) is now available, an Assistant Registrar can order, on production and proof of the original Will, a Probate of the original Will (provided its terms are identical with those of the copy previously proved).

3. In cases of real difficulty the Assistant Registrar should submit the application to a Judge in Chambers for disposal and if the application is in any way contested, he must do so.

4. It is suggested that in cases where an Assistant Registrar is in doubt as to the correct course he should follow, it may assist him if he will consult informally the Registrar, Supreme Court, Kuala Lumpur for his views and guidance.

The Registry,
Supreme Court,
Malayan Union,

Kuala Lumpur, 18th July, 1947.
MR/HT.


REGISTRAR.

To:
All Assistant Registrars, Supreme Court.
All District Judges.