

Present : De Sampayo J. and Schneider A.J.

1921

KATHERESAN CHETTY *v.* DORESAMY *et al.*

445—D. C. Colombo, 1,437.

Cheque signed by proprietor of a business and by another with the word "accountant" added—Personal liability—Representative capacity.

The first defendant was the proprietor of the Indo-Ceylon Trading Company. A cheque was signed by the first defendant, and above his signature in rubber stamp were the words "Indo-Ceylon Trading Company." The second defendant signed after the first defendant with the word "accountant" underneath.

Held, that the second defendant was also personally liable on the cheque, as, although he described himself as accountant, he had not sufficiently indicated that he was signing for and on behalf of the Company.

THE facts appear from the judgment.

Garvin, for second defendant, appellant.

E. W. Jayawardene (with him *Keuneman*), for respondent.

September 9, 1921. DE SAMPAYO J.—

The plaintiff as payee of a cheque drawn by the two defendants sued them in this action for the recovery of the amount. The first defendant has not filed answer, and judgment has gone against him by default. But the second defendant contested the case on the ground that he was not personally liable on the cheque. It appears that the first defendant was the proprietor of a business

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carried on in Ceylon under the name of "Indo-Ceylon Trading Company." The cheque is signed by the first defendant, and above his signature in rubber stamp are the words "Indo-Ceylon Trading Company." The second defendant has also signed after the first defendant with the letters "acct." underneath his signature. These letters, no doubt, is an abbreviation of the word "accountant." The contention of the second defendant in the District Court and in this Court is that he, on the face of the cheque, signed the cheque in his representative capacity as "accountant," and is not personally liable on the cheque. On this point we have to consider the effect of section 26 of the Bills of Exchange Act, which enacts as follows: "Where a person signs a bill as drawer, indorser, or acceptor, and adds words to his signature, indicating that he signs for or on behalf of the principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability." The question in this case is whether, in view of the form in which the signature of the second defendant appears, he could be said to have indicated that he was signing for and on behalf of the Indo-Ceylon Trading Company, or whether he did not merely give a description of the position he held in the Company. It appears to be clear that, although he described himself as accountant, he did not thereby sufficiently indicate that he was signing for and on behalf of the Company. Mr. Garvin, for the second defendant-appellant, strenuously contended that the fact that the name of the Company was stamped above both the signatures sufficiently indicated that the second defendant signed in his representative capacity as accountant for and on behalf of the Company. This point was dealt with by the learned District Judge, and he came to the conclusion that the stamping of the name of the Company did not make any difference. Two cases were cited by him, and they appear to be good authority for his decision, viz., *Landes v. Marcus*¹ and *Dutton v. Marsh*.² In the first of these cases two Directors of a Limited Company drew a cheque, adding to their respective signatures the word "Director." In that case, as in this case, the cheque was stamped with the name of the Company, and yet it was held that they were personally liable on the cheque. I think the decision of the District Judge is right, and I would dismiss this appeal, with costs.

SOHNEIDER A.J.—I agree.

Appeal dismissed.

¹ (1909) 25 T. L. R. 478.

² (1871) 5 B. & S. 413.