

1956 *Present* : Basnayake, C.J., and K. D. de Silva, J.

AGOSTINU and others, Appellants, and KUMARASWAMY and others, Respondents

S.C. 283—D.C. Colombo, 1,218/M.B.

Evidence Ordinance—Section 90C—Entries in a banker's book—Proof.

The only way of proving entries in a banker's book is by either producing the original or certified copies of the entries therein as prescribed by section 90C of the Evidence Ordinance.

APPEAL from a judgment of the District Court, Colombo.

H. V. Perera, Q.C., with *J. M. Jayamanne*, for Necessary Parties Appellants.

S. Nadesan, Q.C., with *R. Manikkavasagar* and *V. K. Palasuntheram*, for Plaintiffs-Respondents.

December 3, 1956. BASNAYAKE, C.J.—

The only question that arises for decision in this appeal is whether entries in the books of a banker have been proved in the manner prescribed in Section 90C of the Evidence Ordinance. That section reads :—

“ Subject to the provisions of this Chapter, a certified copy of any entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions, and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.”

The document produced is not a certified copy of the entries in the banker's book ; but a statement prepared with the aid of those entries certified by the accountant of the bank. Objection was taken at the trial to the production of the statement in question ; but the learned trial Judge over-ruled it. We are of opinion that he is wrong. Section

90C of the Evidence Ordinance does not apply to the statements produced. The only way of proving entries in a banker's book is by either producing the original or certified copies of the entries therein as prescribed by Section 90C. There being no legal proof that two payments were made in respect of the bond No. 3571 on 21st April 1941 and 24th September 1941 the plea of prescription is entitled to succeed.

We accordingly set aside the judgment of the learned District Judge and make order dismissing the plaintiffs' action. The necessary parties appellants are entitled to the costs of appeal and to the costs of the trial in the Court below.

K. D. DE SILVA J.—I agree.

Appeal allowed.
