

1901.

March 26.

KARLINA *v.* MANIMAL.

C. R., Galle, 1,341.

Receipt in full settlement—Admissibility of evidence to explain it.

Where a creditor granted a receipt which purported to acknowledge " a sum of Rs. 60 in full satisfaction of the Rs. 100 due " and to discharge the debtor from the debt,—

Held per LAWRIE, J.—That it was competent to the creditor to prove that he granted the receipt without understanding its contents.

ACTION on a joint and several bond dated 25th May, 1891, granted by the two defendants to the first plaintiff, wife of the second plaintiff, for Rs. 200, payable without interest within three years. Plaintiff claimed a balance sum due thereon. The second defendant pleaded payment of his share of the debt, and produced a receipt under the hand of the first plaintiff in these terms: " I, Karlina, declare to have received from Manimal, one " of the debtors in the said debt bond, a sum of Rs. 60, in full " satisfaction of the Rs. 100 due from him and discharge him from " this debt."

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Plaintiff contended that it was open to her to explain the receipt. The District Judge framed the following issue: "Does receipt A exempt the second defendant from further liability?"

After hearing the evidence offered in explanation of the receipt, which the second defendant objected to, the Court found that plaintiff did not intend to give defendant this receipt in full discharge of the debt.

The second defendant appealed.

Samarawikrama, for appellant.—It was irregular on the part of the Court below to have admitted evidence to contradict or vary the meaning of the words of the receipt. The receipt is evidence of a contract to accept a smaller sum than was due in satisfaction of the entire debt. D. C., Chilaw, 1,374, reported in 2 N. L. R. 306, is no authority in justification of the District Judge's ruling that the receipt afforded evidence "only of a fact and not a contract," and that therefore "the rule that parol evidence is inadmissible to vary its terms does not apply." Plaintiff cannot qualify the receipt by saying "We did not mean what we said." In fact the very judgment quoted by the other side says so. In that judgment the words "in full discharge" mean that the sum paid and accepted in full discharge was really the full amount of the debt. The facts of the present case are different. The plaintiff was told by the notary that the terms of her receipt would operate as a complete discharge. The case relied on by the District Judge is not applicable to the circumstances of the present case.

Bawa, for respondent.—There is nothing to distinguish this receipt from that in 2 N. L. R. 306. But it is unnecessary to rely on that judgment. Proviso 1, section 2, of the Evidence Act enables the plaintiffs to prove that that document was signed under a mistake of fact. The judge has found on the facts, and that judgment is not appealable from without the leave of the Court. There is another important point which invalidates the receipt. It is not competent for the wife to discharge the debt, because all movable property—and this is movable property—vests in the husband. Here the wife only signed the receipt, the husband signing in attestation only. The evidence is clear in that particular. The attestation merely vouches for the signature of the wife without acquiescing in her act. The appellant appeals on the law only that the evidence could not be admitted. Once that evidence is admitted, it becomes a question of fact, and the appellant has no leave.

Cur. adr. vult.

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The plaintiff sued on a bond executed by two defendants, and in the plaint credited them with a payment of Rs. 150, for which he said he had given a receipt about two months before action. The second defendant alone entered appearance, and he pleaded payment of his share, and stated^o that he held a receipt which discharged him from the debt. The mere production of the receipt, though the signature was admitted did not prove an absolute discharge.

No replication was filed. The Commissioner framed this issue; "Does receipt A exempt second defendant from further liability?" Evidence was led, and it was proved that the plaintiff had signed the receipt without understanding its contents. The Commissioner especially finds that she did not give the receipt in full discharge of the debt.

The plaintiff gives the defendant credit for a larger sum than the latter alleges he paid, or than is mentioned in the receipt.

The judgment is right, and must be affirmed.

