

## AGRIS APPU v. DAVID APPU.

1903.  
February 17.

D.C., Kalutara, 2,262.

*Appeal petition—Petition signed by Mr. Proctor A for Mr. Proctor B—Delegation of proctor's authority to conduct client's case.*

A proctor is not entitled to appear for a client unless he has a proxy signed by such client, and a proctor cannot delegate his authority to appear in a Court and conduct his client's case to another proctor.

A petition of appeal signed by Mr. Proctor A for Mr. Proctor B is inadmissible.

**T**HE appeal petition of the defendants in this case was signed by " M. Dharmaratne for Mr. B. O. Dias, proctor, for first to ninth defendants, appellants ".

*Schneider*, for plaintiffs, respondents—The appeal cannot be entertained, as the petition of appeal is irregularly signed. Mr. Dharmaratne is not the appellant's proctor, and has no authority to do so. *Assauw v. Billimoria* (22 C. L. R. 86); *Perera v. Molligoda* (9 S. C. C. 65). This is not a purely technical objection, for the Court cannot hold any person responsible in the case of such a petition. The suitor may disavow the acts of a proctor who was never authorized by him to act for him, and a proctor cannot delegate his authority to another unless he is specially empowered.

*Weinman*.—The petition of appeal is not bad. If Mr. Proctor Dharmaratne's signature is inadmissible, the appellant's advocate can sign it even in the course of the argument, *Ibrahim Lebbe v. Harmanis* (2, 27, *Lorenz*). [LAYARD, C.J.—Do you move to be allowed to sign it now?] I would rather move that the appellant's proctor, Mr. Dias, be given an opportunity of signing it. In the Court below Mr. Dharmaratne was understood to have the authority of the appellants to act for them. It is true he had not their proxy, but he conducted their case in the Court below, and acted for them all through. [LAYARD, C.J.—That was improper.] Strictly speaking it was improper, but as he had acted in the Court below without any objection on the part of plaintiffs or of the Judge, he thought himself justified in signing the petition for and on behalf of Mr. Dias. I would ask the case be sent back for the defect to be rectified.

17th February, 1903. LAYARD, C.J.—

A preliminary objection is taken by the respondents' counsel to our entertaining this appeal. The appeal is signed by Mr. Dharmaratne for Mr. B. O. Dias, proctor, for the first nine defendants, appellants. We are bound by the judgment of the Full

1803. Court in the case of *Assauw v. Billimoria*, reported in (2 C. L. R. 86),  
 February 17. in which the Full Court held that the signature of one proctor  
 LAYARD, C.J. for another was bad, and following the decision of Clarence,  
 J., in the case of *Perera v. Molligoda* (9 S. C. C. 65), we must  
 reject this appeal on the objection taken by respondents' counsel.

Mr. Weinman, appellants' counsel, has pointed out to us a case  
 in *Lorenz's Reports*, in which the advocate conducting the appeal  
 was allowed to sign the petition of appeal when the case was being  
 argued before this Court. He has however very discreetly and  
 wisely not asked us to be allowed to sign the petition of appeal  
 now before us. If he had asked us to be allowed to do so, we  
 should not have been inclined to grant him permission to sign the  
 petition of appeal in view of the decisions above referred to.  
 Mr. Weinman has, however, suggested that we should allow the  
 petition of appeal to be returned to the District Court, so as to  
 enable the proctor on the record, Mr. B. O. Dias, to now sign the  
 appeal and to perfect it by his signature. He has pointed out  
 to us that Mr. Dharmaratne appeared for Mr. Dias and con-  
 ducted the case in the District Court, and it was probably because  
 he was allowed by the District Court to conduct the case on  
 behalf of Mr. Dias, that Mr. Dharmaratne considered he was  
 justified in signing the petition of appeal to this Court. If we  
 were to yield to the suggestion made by Mr. Weinman, we would  
 be sanctioning a very objectionable practice, namely, the practice  
 of one proctor appearing to conduct a case for another in the  
 lower Court.

We are of opinion that a proctor cannot appear for another  
 proctor in any Civil Court in this Island and conduct the case for  
 him. We certainly agree with the opinion of Bonser, C.J., in the  
 case of *Letchimanan v. Christian* (4. N. L. R. 323), in which  
 he holds that "one proctor cannot employ another proctor to  
 appear for him and conduct the case. If the proctor does not  
 wish to conduct the case himself, he is at liberty to employ an  
 advocate". No proctor is entitled to appear for a client unless  
 he has a proxy signed by such client, and a proctor cannot delegate  
 the authority given him by his client to appear and conduct his  
 client's case to another proctor.

The appeal must be dismissed with costs.

