1895.
September 11.

PUNCHIHAMI *v.* WEERARATNE.

C. R.,, Galle, 3,329.

Partnership—Right of one partner to bind partnership property after dissolution—Right to sign the firm's name—Indorsement of promissory note by one partner after death of co-partner.

Where a promissory note made *by defendant* in favour of "J, C & Co.," consisting of two partners J & C, was endorsed by C in his own name after the death of J, and consequently after the dissolution of the partnership,—*Held*, that such endorsement *to plaintiff* on the part of the only surviving partner was good, and entitled plaintiff to sue the maker.

PLAINTIFF sued defendant as the maker of a promissory note in favour of one Janis de Silva and Carolis, who had traded in partnership under the name and style of Janis, Carolis & Co.

Plaintiff alleged that she was the widow of Punchihami, to whom the note was endorsed by Carolis after the death of his partner Janis. She claimed Rs. 34·37.

The Commissioner found as follows: "The note is not properly "endorsed, even if the surviving partner has power to endorse. I "presume he has that power..... The promissory note is made "in favour of 'Messrs. Janis, Carolis & Co., or order.' It is not "endorsed by that firm, or by any person claiming to have power "to sign on behalf of the firm. It is endorsed merely with the "name of the surviving partner, and it does not appear whether he "negotiated this note in satisfaction of a private debt or of a debt "of the firm..... I hold that the note is not properly endorsed, "and dismiss the claim with costs."

On appeal, *Blazé*, for appellant.

11th September, 1895. BROWNE, A.J.—

One Janis de Silva, plaintiff's deceased husband, and Carolis Perera were partners, trading under the firm and style of Janis, Carolis & Co. Defendant, during the continuance of the partnership, made and granted to the partnership the promissory note sued upon. After the death of plaintiff's husband, and consequently after the dissolution of the partnership, Carolis endorsed the note to the plaintiff. The Commissioner in his judgment states: "It is endorsed merely with the name of a surviving "partner," and he holds that the note was not properly endorsed. This issue as to the mode in which a surviving partner should endorse was not raised by the answer or at the trial.

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I do not hold with the Commissioner thereon. The partnership was dissolved. "If a bill is sent into circulation after the dissolu- "tion of the partnership, all the partners must join the endorse- "ment," *i.e.*, must endorse their personal names thereon, for "one "by putting the partnership name cannot bind the rest," and "the "moment the partnership ceases the partners become distinct "persons, and if they send any securities which did belong to the "partnership into the world, all must join in doing so." (*Abel v. Sultan, 3 Esp. 108.*) Here the one surviving partner endorsed, and it appears to me that he could not at a time subsequent to the dissolution of the period during which he had right to use the partnership name and bind the firm have endorsed the old firm name, and thereby bound the estate of the original partnership or of his deceased partner, and that he could only endorse his own name as the surviving partner.

I hold the endorsement was regular, and remit the action for trial. Costs of the lower Court will be costs in the cause. There will be no costs in appeal.