NAIDEHAMY *v.* SILVA.

D. C., Tangalla, 297.

1896.
December 2.
1897.
February 10.

Official administrator—Appeal—Costs.

An official administrator should not appeal against a judgment without the leave of the Court; if he does so he is personally liable for costs.

THE facts appear in the judgments.

Wendt and *Bawa*, for appellant.

Morgan, for respondent.

Cur. adv. vult.

10th February, 1897. BONSER, C.J.—

I am of opinion that the appeal should be dismissed. The decree is right in substance, though I do not agree with the District Judge that the gift is a *donatio mortis causa*. It was rather a money bond payable by the maker's legal personal representative,

The appellant must pay the costs of the appeal personally, and not out of his intestate's estate. An official administrator should not prosecute an appeal without the leave of the Court. If he does so it must be at his own risk.

WITHERS, J.—

I take the same view of the instrument on which the same maker's legal representative has been sued by the plaintiff as the assignee of the surviving obligee. As a money bond the document in my opinion did not require registration. I have the Chief Justice's permission to modify his proposed order as to costs, though in principle I am entirely at one with him, and it must be clearly understood in the future that an official administrator who appeals from a judgment of a lower court without judicial sanction appeals at his own risk. An official administrator must not waste an estate in litigation, but to protect himself he must either get the sanction of the Court or an indemnity from those in whose interest he is administering the estate. In this instance the defendant must pay the cost out of his own pocket, with leave to apply to the District Judge for an order allowing him to reimburse himself out of the estate, which the Judge is only to make if he is satisfied with the conduct of the official administrator in the matter.