

CHITAMBARAM CHETTY v. VARA ADAMI.

C. R., Colombo, 20,716.

1902.
November 17

Promissory note—Signing of blank printed form—Duty of payee to fill up strictly in accordance with the authority given—Bills of Exchange Act, s. 20.

V A, having signed a blank printed form of a promissory note duly stamped as for a note payable on demand, gave it to M C for value received by him. In an action brought by C C against V A upon this note, which purported to have been signed in his own favour,—

Held that, as the note was not filled up strictly in accordance with the authority given by V A to M C, and was not negotiated to the plaintiff before it became due for value and without notice of the defect, the defendant was entitled to show the true facts of the case and deny his liability to the plaintiff.

THE facts of the case appear in the judgment of WENDT, J.
The appeal was heard on the 27th October, 1902.

H. Jayawardene, for plaintiff, appellant.

Wadsworth, for respondent.

Cur adv. vult.

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The plaintiff sues on a promissory note in his own favour signed by the defendants for the sum of Rs. 225. The defence, which the Commissioner has upheld, was that the defendants signed a blank printed form of note duly stamped as for a note payable on demand, and gave it to one Muttu Caruppen Chetty, who had lent them the Rs. 100 forming the consideration of the note, and that he had authority only to fill it up in his own favour, and for such sum of the Rs. 100 as should remain due. The defendants denied any knowledge of plaintiff in connection with the transaction, and denied their liability for the sum claimed, as the note had been fraudulently filled up in plaintiff's favour and for the sum of Rs. 225. Plaintiff's account of the matter was that he had himself lent the defendants the sum of Rs. 225, and they had signed the note after it had been fully written out as it now stands.

The Commissioner found the facts in defendants' favour as I have stated them, and I have no reason to think that he was wrong. Upon that finding he was right in dismissing the action. This being the case of a promissory note, section 20 of the Bills of Exchange Act applies. Assuming plaintiff was the payee intended by the makers, sub-section 2 enacts that in order that the blank instrument when completed may be enforceable against any person who (like the makers) became party thereto prior to its completion, it must be filled up strictly in accordance with the authority given. The exception is where such a note after completion is negotiated to a holder in due course, that is, one who takes the note before it is due, for value and without notice of the defect. Plaintiff's case is that he was the payee intended by the makers, and that the note was deliberately made by them in his favour. He cannot be heard to say that he is entitled to recover by reason of the exception, as though he were a holder in due course. Even if he could be heard to set that up, the facts disprove his claim. There was no negotiation to him (see the definitions in sections 31 and 29 of the Act of the terms "negotiation" "and holder in due course").

Appellant's counsel relied on the case of *Union Credit Bank v. Mersey Docks and Harbour Board* (68 L.J., Q. B. 842), where the party signing a blank delivery order was held estopped from disputing the act of the person whom he had authorized to fill it up. But in the first place such estoppels, in the case of negotiable instruments, are in my opinion provided for by section 20 of the Act, and in the next place the facts of the two cases are not similar.

In the English case the plaintiffs, the persons entitled to the goods warehoused with defendants, owed the defendants a duty—the duty of filling up the delivery order form with such particulars as should guide the defendants in delivering the goods, and in the discharge of that duty they signed an order form expressly directed to the defendants, and intending that the defendants should receive and act upon it, as they in fact did. The order contained a blank where the quantity of the goods should have been specified, and this blank the plaintiffs authorized Nicholls to fill up by stating a particular quantity. He filled it up with a larger quantity, presented it to defendants, and obtained the goods which he made away with. The action was in trover against the defendants for the excess of the goods. Plaintiffs were held estopped from showing the limitation on Nicholls' authority. In the present case the defendants owed no duty to plaintiff, signed no document addressed to him or intended to be acted on by him. Plaintiff was a complete stranger, and he took a note in his favour for which he had given the makers no consideration whatever, and I think that as against him the defendants are entitled to show the true facts.

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WENDT, J.

The appeal is dismissed.
