1903.
June 4.

RANGHAMI *v.* KIRIHAMY.

D. C., Kandy, 14,928.

Jurisdiction—Action by trustee of Buddhist vihare to set aside lease—Improvident execution of lease by incumbent—Residence of defendant and site of lands leased outside jurisdiction of Court—Grounds of cause of action—Civil Procedure Code, s. 9.

In an action raised by a trustee of a Buddhist Vihare against the lessee of certain lands to set aside the lease which had been executed within the jurisdiction of the District Court of Kandy, on the ground that such lease was an improvident alienation,—

Held, that the true definition of "cause of action" was the act on the part of the defendant which gives the plaintiff his cause of complaint; that the wrongful act of the defendant complained of was done in Kandy, in accepting a lease from the incumbent which the latter had improperly executed for his own benefit and to the injury of the vihare; and that therefore the District Court of Kandy had jurisdiction to try the case, notwithstanding that the residence of the defendant and the site of the lands were beyond its limits.

THE facts of the case appear in the judgment of Layard, C.J.

Van Langenberg, for appellant.

H. Jayawardene, for respondent.

4th June, 1903. LAYARD, C.J.—

The only question raised in this case is whether the Kandy District Court has jurisdiction.

The plaintiff is the trustee of a vihare situated within the jurisdiction of the Kandy District Court, and he brings this action

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to set aside a deed of lease executed by the incumbents of the vihare alleging, as his cause of action, that the deed of lease was for a longer term than was consistent with the interests of the vihare, and was an improvident alienation of the property leased. He further alleges that the consideration for the lease was inadequate and for the private benefit of the incumbent. He prayed, for the reasons given above, that the lease may be set aside, and the relief he seeks for is to be placed in possession of the lands.

The lands are situated outside the jurisdiction of the District Court of Kandy. The objection was raised in the Court below, and by the appellant in this Court, that as the defendant resided outside the jurisdiction of the Kandy District Court, and the lands leased were also outside the jurisdiction of that court, the Kandy District Court had no jurisdiction to entertain the case.

Now, the jurisdiction of District Courts is laid down by section 9 of the Ordinance No. 2 of 1889 to be (1) over parties resident within its jurisdiction, (2) over land situated, in whole or in part, within its jurisdiction, (3) where the cause of action has arisen within its jurisdiction, or (4) where the contract sought to be enforced was made. The question then is whether the cause of action in this case arose within the jurisdiction of the Kandy District Court.

Cause of action, for the purposes of our Civil Procedure Code, has been defined, amongst other things, as " a wrong for the prevention or redress of which an action may be brought. " The wrong alleged here appears to be the execution of a lease within the jurisdiction of the District Court of Kandy, whereby an injury to the temple revenues payable to the trustee within such jurisdiction was inflicted. From the definition given by our statute it appears therefore to me that the Kandy Court has jurisdiction in this case. If we look to the English decisions with regard to the definition given to " cause of action, " we find Brett, J., in *Cooke v. Gill*, reported in *L. R. 8 C. P. 116*, has defined cause of action as meaning " every fact which is material to be proved to entitle the plaintiff to succeed; every fact which the defendant would have a right to traverse. "

Applying that definition to this case, the fact that was material to be proved was, that the lease was executed, and that it was improvidently executed by the incumbent of the vihare. These were the only facts which, if successfully traversed, would have entitled the defendant to obtain a dismissal of the plaintiff's action, and even under the definition given in *Cooke v. Gill* it appears to me that it is clear that the Kandy District Court in the case had jurisdiction. Brett, J., had previously in *Jackson v. Spittal* (*5 C. P.*

552) laid down that a " cause of action was the act on the part of the defendant which gives the plaintiff his cause of complaint. " Taking that as the true definition of " cause of action, " the act of the defendant was done in Kandy in accepting a lease from the incumbent of the vihare which the incumbent had improvidently executed for his own benefit to the injury of the temple of which he was the incumbent. In that view also it appears to me that the Kandy Court had jurisdiction.

Respondent's counsel has invited our attention to a passage in a Treatise on the Law of *Res Judicata* by Hukm Chand, p. 11, in which he cites Lord Watson's decision in a Privy Council case. There he says that Lord Watson laid down that " cause of action has no relation whatever to the defence which may be set up, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the grounds set forth in the plaint as the cause of action, or, in other words, to the media upon which the plaintiff asks the Court to arrive at a conclusion in his favour. " I have before stated what are the media upon which the plaintiff relies and asks this Court to arrive at a conclusion in his favour. Accepting again Lord Watson's definition also, it is clear that the Kandy Court had jurisdiction in this matter. It has been suggested by appellant's counsel that, as the plaintiff prays to be restored to possession and as the land leased is outside the Kandy District, the District Court of Kandy could not exercise jurisdiction or award damages. In view of Lord Watson's judgment it seems that the cause of action does not depend upon the relief sought by the plaintiff—viz., in this case the setting aside of the lease and the restoration to possession of the lands leased—but upon the execution of the lease improvidently, and this execution took place within the jurisdiction of the District Court of Kandy. I am of opinion, therefore, that the judgment of the District Judge should be affirmed. The appellant must bear the costs of this appeal.

WENDT, J.—

I am of the same opinion. It seems to me that the definition contained in the Civil Procedure Code of the term " cause of action " was intended to embody that interpretation which was first put upon it in the case of *Jackson v. Spittal* (*L. R. 5 C. P. 542*) and afterwards adopted at a conference of all the Judges. *Vaughan v. Waldon*, *L. R. 10 C. P. 47*. The instances given in our definition are all of acts of the defendant party, such as the denial of a right, the refusal to fulfil an obligation, the neglect to perform a duty, and the infliction of an affirmative injury. These are acts which form the ground of the plaintiff's complaint.

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There is, no doubt, in the present case a prayer for the restoration of the plaintiff to possession; but, even taking the wider definition of the term " cause of action, ' which was enunciated in *Cooke v. Gill* (*L. R. 8 C. P. 107*), the defendant's possession of the land leased to him was not a material fact which the defendant was entitled to traverse, and which the plaintiff would have been obliged to prove before he could have the lease cancelled. In the result, I think that the " cause of action " in the present case was the execution of the improvident lease, and that having been effected within the jurisdiction of the Court, the action was rightly brought in the District Court of Kandy.