

1935

Present : Koch A.J.

WEERASINGHE HAMINE v. DIAS.

42—C. R. Gampola, 1,773.

*Promissory note—Note payable to a person or his “báarakárádee”—Validity of note.*

Where a promissory note was drawn in Sinhalese in favour of a person on his “báarakárádee”,—

*Held*, that the note was a valid one.

**A** PPEAL from a judgment of the Commissioner of Requests, Gampola.

*Peter de Silva*, for plaintiff, appellant.

No appearance for defendant, respondent.

<sup>1</sup> 37 *Times L. R.* 72.

June 26, 1935. KOCH A.J.—

The only point for consideration in this appeal is whether the document sued on is a promissory note.

The learned Commissioner, acting on the footing that the words appearing in the document made the debt due on it payable to the appellant or her assigns, dismissed the appellant's action on the ground that the document therefore was not in law a promissory note. If the words in question, which are in Sinhalese, when correctly translated meant "assigns", the Commissioner's finding would be correct. The decision of this Court in *Peter v. Suriapperuma*<sup>1</sup> would be exactly in point.

The Commissioner, however, proceeded on a translation that was faulty. The material word or words in the original have not the significance that the word "assigns" has in English law. The word in the original is "*Báarakárádee*". This word has been held by this Court in \*S. C. 124—C. R. Gampola, 5,329 (S. C. Minutes, September 1, 1922) to mean "a person who comes into possession of the document in the proper manner" when correctly stated. This signifies something different from what "assigns" does. I agree with the opinion expressed by Ennis J. and hold that the document sued upon is a promissory note.

Mr. E. F. de Silva, Proctor for the respondent, taken his case on issue 1 and abandoned issue 2. My finding decides issue 1 in favour of the appellant.

The judgment of the Court of Requests is set aside. Let decree be entered in favour of the appellant as prayed for with costs. The appellant is entitled to her costs of appeal.

\*S. C. 124—C. R. Gampola 5,329.

September 1, 1932. ENNIS J.—

This was an action on a promissory note by the payee against the heirs of the maker. The only question in the case was whether the note was in legal form. The note is in Sinhalese and the expression used in it "*Báarakárádee*" was translated in the translations filed in the case as "assignees". Whereupon the Commissioner of Requests held on the authority of the case of *Peter v. Suriapperuma*<sup>1</sup> that the action would not lie. In appeal it is being urged that the word "*Báarakárádee*" has not been correctly translated. On reference to the Registrar who was for many years Sinhalese Interpreter to the Courts, he says that the word means "the person who comes into possession of the document in the proper manner". That being so the document complies sufficiently with the requirements of the Bills of Exchange Act as indicating the person who could recover on the note. I would accordingly allow the appeal with costs and give judgment for the plaintiff with costs against all the defendants.

<sup>1</sup> 20 N. L. R. 318.