

1964 *Present : Abeyesundere, J., and Sri Skanda Rajah, J.*

M. A. A. DE SILVA, Appellant, *and* M. ALI MOHAMED *and* another,
Respondents

S. C. 137 (Inty.) and 356—D. C. Nuwara Eliya, 4518

Money Lending Ordinance—Section 8—Book of accounts—Entries therein—Requirement of words as well as numerals.

In the book of accounts kept by the plaintiffs, who were carrying on money-lending business, the accounts were specified only in numerals and not in words.

¹ (1918) 5 C. W. R. 181.

² (1932) 12 C. L. R. 168.

Held, that the book was not kept in accordance with the provisions of section 8 (1) of the Money Lending Ordinance. Accordingly, the plaintiffs were not entitled to enforce a claim in respect of any transaction in relation to which the default was made.

APPPEAL from a judgment of the District Court, Nuwara Eliya.

H. W. Jayewardene, Q.C., with *S. Sharvananda*, for the Defendant-Appellant.

E. G. Wikramanayake, Q.C., with *C. Ranganathan*, for the Plaintiffs-Respondents.

April 29, 1964. ABEYESUNDERE, J.—

The plaintiffs sued the defendant for the recovery of certain sums of money lent by them to him and the interest thereon. One of the pleas raised on behalf of the defendant is that the book of account produced by the plaintiffs has not been kept in accordance with the provisions of section 8 (1) of the Money Lending Ordinance and that therefore the plaintiffs cannot enforce their claim. The aforesaid section provides that the items and transactions incidental to the account shall be clearly stated "in plain words and numerals". In my view the quoted expression means in the context of the said section that wherever it is feasible to do so the description of the items and transactions incidental to the account must be in plain words and numerals. The purpose of such provision is to eliminate or minimize the possibility of fraudulent alterations or interpolations.

In the book of account produced by the plaintiffs the accounts are specified only in numerals and not in words. I therefore hold that the book of account produced by the plaintiffs has not been kept in accordance with the provisions of the aforesaid section and that by virtue of subsection (2) of the said section 8 the plaintiffs are not entitled to enforce the claim that they have pleaded in their plaint.

I allow the appeal and dismiss the action of the plaintiffs. The appellant is entitled to his costs both here and in the Court of trial.

SRI SKANDA RAJAH, J.—

In my view section 8 (1) of the Money Lending Ordinance requires that the amount of every transaction should be written both in words and numerals.

Besides, in this case the original book of account alleged to have been kept by one of the plaintiffs in Urdu has not been produced. What has been produced is said to be a ledger which was entered on the information supplied by the plaintiff who kept the book of account

in Urdu to the Kanakapulle and entered by the latter in Tamil. The Day Book has not been produced. The Book that has been produced is not, in my view, a regular account that has been kept as required by section 8 (1). This view derives support from the judgment of Gratiaen, J., in *S. C. No. 119 of 1954, D. C. Kandy 16020* (S. C. Minutes of 14.2.1956).

For each of these reasons the appeal should be allowed and the plaintiffs' action dismissed with costs in both Courts.

Appeal allowed.
