

Present : De Sampayo J.

1921.

GUNARIS HAMY v. NONABABA.

316—C. R. Matara, 11,817.

Married woman—Debts incurred without the consent of husband for a devil-dancing ceremony—Is it a contract to her benefit?—Business connected with the household.

A married woman cannot enter into an obligation by contract without the concurrence or consent of her husband.

Query, whether the principle that a married person may enter into a contract, which is to her benefit, is not confined to contracts by which the other party is bound to the married woman.

Where a married woman borrowed money for a devil-dancing ceremony as she was suffering from a disease—

Held, that this was neither a kind of benefit contemplated by the decision in *Marie Kangany v. Karuppasamy Kangany*,¹ nor a business connected with the household.

The expression business connected with the household refers to the ordinary management of a household by the mistress of the house.

THE facts appear from the judgment.

Cooray, for defendant, appellant.

E. W. Jayawardene, for plaintiff, respondent.

December 12, 1921. DE SAMPAYO J.—

The defendant is a married woman, and is being sued on two mortgage bonds, which she executed without the concurrence or consent of her husband. The Commissioner held that the mortgages were bad, but that the bonds, so far as the money claim was concerned, were valid. This overlooks the disability of a married woman to enter into obligations by contract. Mr. E. W. Jayawardene, however, seeks to support the judgment on the ground that a married woman may enter into a contract which is to her benefit. In my opinion the law here relied on refers to contracts by which the other party is bound to the married woman, and not she to the other party. But a wider view appears to have been taken in *Marie Kangany v. Karuppasamy Kangany*.¹ In that case the money borrowed had gone in payment of a prior mortgage executed by the wife with the consent of the husband, and where the wife died and the husband was sued as the administrator of her estate, this Court held that the defendant was liable to repay the money, as the wife's estate had benefited by the transaction. That case is, however, distinguishable. In the present case all that the plaintiff

¹ (1906) 10 N. L. R. 79.

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said was that the defendant was suffering from a disease, and wanted the money for a devil-dancing ceremony. This is not the kind of benefit contemplated by the above decision. It does not even appear that the money was spent in the performance of the devil ceremony, or that it was the devil ceremony that cured the woman. It is quite obvious that this was the case of an ordinary debt incurred by the married woman. Mr. Jayawardene also cited *Walter Pereira's Laws of Ceylon 232*, and argued that this was a business connected with the household which the defendant had transacted. The expression "business connected with the household" evidently refers to the ordinary management of a household by the mistress of the house. But I cannot regard a devil dance as such business.

I think the appeal should be allowed. The judgment under appeal is set aside, and the action dismissed, with costs, in both Courts.

Set aside.