

May 26, 1911

Present : Lascelles C.J. and Middleton J.

BULATHSINGHALA v. SAMARASINGHE et al.

75—D. C. Ratnapura, 1,750.

Principal and agent—Both liable jointly and severally for acts of agent within the scope of his authority.

Where second defendant, who was manager of a plumbago-pit belonging to the first defendant, bought from plaintiff timber for the opening of the pit,—

Held, that the plaintiff was entitled to recover the value from both defendants jointly and severally.

Every act done by an agent in the course of his employment on behalf of the principal and within the apparent scope of his authority binds the principal, unless the agent is in fact unauthorized to do the particular act, and the person dealing with him has notice that in doing such act he is exceeding his authority.

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THE facts appear sufficiently from the judgment.

B. F. de Silva (with him *Samarawickreme*), for the plaintiff, appellant.

No appearance for the respondent.

May 26, 1911. LASCELLES C.J.—

In this case it is admitted that the second defendant was the manager of a plumbago pit belonging to the first defendant. It is proved that the plaintiff sold certain timber to the second defendant at the time when the latter was still the manager of the pit, that is, before the pit was sold. It is admitted and there can hardly be any doubt on the point, that timber such as that sold by the plaintiff is ordinarily used in pits, and that it would be within the authority of a manager of a pit to buy such timber for the purpose of his business. Under these circumstances, I am of opinion that it must be assumed that the second defendant purchased as an agent of the first defendant. The rule is clearly expressed in article 80 in *Bowstead on Agency*, which is as follows :—

Every act done by an agent in the course of his employment on behalf of the principal and within the apparent scope of his authority binds the principal, unless the agent is in fact unauthorized to do the particular act, and the person dealing with him has notice that in doing such act he is exceeding his authority.

I am therefore of opinion that the appeal should be allowed, and the judgment varied by ordering the two defendants to pay the amount claimed in the plaint jointly and severally.

MIDDLETON J.—

I agree. I think the evidence shows that the second defendant was the agent of the first, and that he did, within the scope of his authority as manager of the plumbago pit, buy timber for the purpose of opening up the pit. It is also proved that this timber or some timber was supplied to the second defendant during the time that the first defendant was proprietor of the pit, that is to say, in October, 1910. I am of opinion that upon the authority quoted of *Bowstead on Agency*, and also on the authority of *Edmunds v. Bushell and Jones*¹, the plaintiff would be entitled to recover as against the first defendant as well as the second defendant in this action jointly and severally. The appeal must be allowed with costs.

Appeal allowed.