

1952

Present : Rose C.J.

CHRISTIE, Appellant and MOHAMED BHAI, Respondent

S. C. 192—C. R. Nuwara Eliya, 18,656

Minor—Contract—Loan—Benefit to minor—Onus of proof.

In regard to the liability of a minor to repay a loan, the onus of proof is on the minor to show that he has received no benefit.

¹ (1902) 5 N. L. R. 314.

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

V. S. A. Pullenayagam, with *L. F. Ekanayake*, for the defendant appellant.

T. B. Dissanayake, for the plaintiff respondent.

Cur. adv. vult.

February 29, 1952. ROSE C.J.—

In this case all that matters turns upon the liability of a minor to repay a loan together with legal rate of interest.

It appears that on a previous occasion the plaintiff-respondent had advanced money to the appellant which the latter had repaid. On the present action an advance of Rs. 250 was made on which interest at the rate of 18 per cent. (which is the permissible legal rate of interest) was payable.

The appellant in evidence stated that he had employed the money for the purpose of a loan to a friend. This friend was not called and the learned Commissioner disbelieved (in my opinion rightly) the appellant on this point. It appears that the appellant at the material time was employed as a clerk on an estate on a salary of Rs. 75 per month and an allowance of Rs. 60, having previously been a "creeper" on the same estate at a salary of Rs. 45 per month.

It seems to me that in all the circumstances of this case the loan must be taken to have been *ex facie* beneficial to the minor. The onus therefore lay upon the minor to displace this presumption. He failed to do so. I am therefore of opinion that the plaintiff-respondent was entitled to succeed. As is pointed out by Mr. Balasingham (at page 708 in Volume II of his book on the Laws of Ceylon) in the case of a loan the onus of proof is on the minor to show that he has received no benefit.

For these reasons the appeal is dismissed with costs.

Appeal dismissed.
