

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the Credit Foncier of Mauritius, Limited, v. Paturau & Co., from the Supreme Court of Mauritius; delivered Tuesday, 5th December 1876.*

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Present :

LORD BLACKBURN.

SIR J. W. COLVILLE.

SIR BARNES PEACOCK.

SIR MONTAGUE E. SMITH.

SIR R. P. COLLIER.

IN this case the action was brought by Paturau, and others, to cancel a contract which they had entered into with Charles Mauvis, and to authorize them to remove certain machinery which they had set up upon a sugar estate of Charles Mauvis, he having failed to pay them the price of the said machinery. At the time when the contract was entered into by Mauvis, the estate had been mortgaged by a person under whom he claimed to, amongst other persons, the Credit Foncier, and they claimed to have the right to the machinery, notwithstanding Paturan had not been paid. Pending the suit, an order was made for the sale of the estate which had been mortgaged to the Credit Foncier upon the application of that Company, and the estate was sold, after notice of this action, to the purchasers, who were informed that they would purchase subject to the decision of the Court. The Credit Foncier were paid, and fully paid, all their principal and interest out of the money which the estate realised, and the only persons remaining interested in the case were the purchasers who

had been made parties to and who defended this suit, but who do not think it necessary to appeal against the judgment. If the judgment be set aside, the Credit Foncier will get nothing. The purchasers have purchased subject to the decision in the suit. If the judgment of the Court be set aside, the purchasers will be entitled to the machinery. If it remain as it is, they will not be entitled to it. Whatever may be the decision of this tribunal upon this appeal, the Credit Foncier would get no benefit whatever. The only interest, therefore, the Credit Foncier can have is to have the judgment reversed, with costs, in order that they may recover the costs which they have been put to in the action. But appeals are not allowed to Her Majesty in Council merely for the sake of costs, nor (if they were) do the costs amount to the appealable value nor to the sum which the Credit Foncier, when they appealed, alleged to be the amount involved.

Under these circumstances their Lordships are most clearly of opinion that the Credit Foncier have no *locus standi* as Appellants, and consequently they will humbly advise Her Majesty that the Appeal be dismissed.