

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Noel Charles Minchin Home v. John Charles Edward Douglas, from His Britannic Majesty's Supreme Court for China (P. C. Appeal No. 18 of 1912); delivered the 14th November 1912.

PRESENT AT THE HEARING :

LORD MACNAGHTEN.

LORD MERSEY.

LORD MOULTON.

[DELIVERED BY LORD MACNAGHTEN.]

Their Lordships are of opinion that there is no ground for this Appeal.

Mr. Home entered into an agreement, express and unambiguous, that he would not practise in Shanghai for a certain time. In spite of that he did practise there. The Court was right in granting an injunction. It was as plain a case as could be.

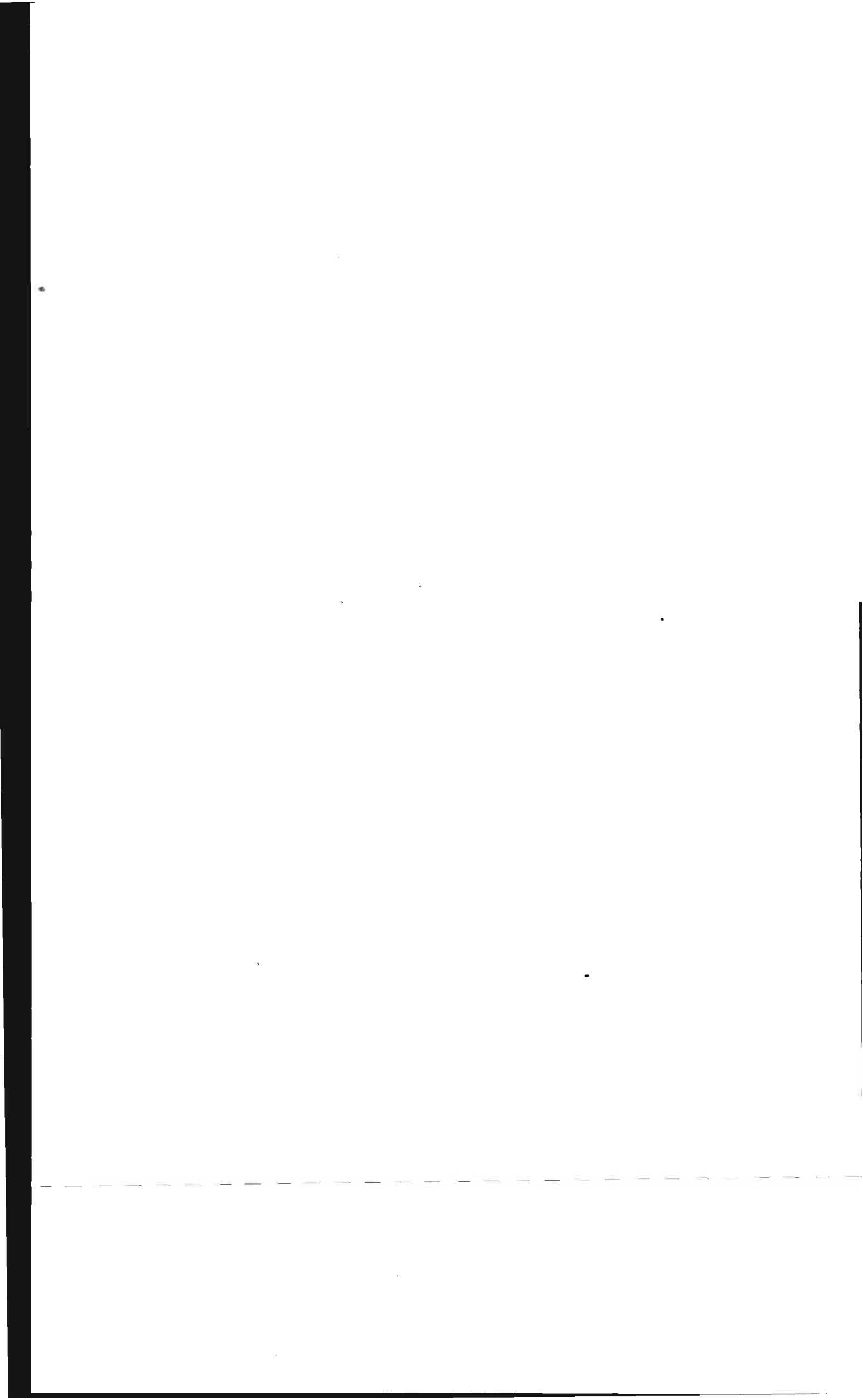
The defence was threefold. First, the Appellant said there was no jurisdiction to restrain him from breaking his engagement because he is an English barrister. But the agreement itself begins by stating that Mr. Douglas and he had been in practice in a way in which no English barrister would have been permitted to practise. They carried on business in partnership. There is nothing in the question of jurisdiction. In Shanghai the two branches of the profession, which are distinct in this country, apparently are amalgamated. There is

no reason why a person who carries on both branches and is a legal practitioner in Shanghai should not enter into an agreement not to practise for a reasonable time.

The next objection was that there was some oral agreement. There is no evidence of that. There is a definite agreement in writing which must govern the rights of the parties.

Then it was said that the terms on which Mr. Douglas has carried on his business since the agreement are not strictly in accordance with professional etiquette, on some rules which their Lordships do not understand, and that therefore the Appellant who agreed not to do a certain thing, is excused from breaking his agreement, and is entitled to do so.

Their Lordships think that Mr. Home's conduct was without justification or excuse; and they will humbly advise His Majesty that this Appeal ought to be dismissed with costs.



NOEL CHARLES MINCHIN HOME

v.

JOHN CHARLES EDWARD DOUGLAS.

DELIVERED BY LORD MACNAGHTEN.

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