Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Narain Doss v. Estate of the Ex-King of Delhi, from a Decree of the Judicial Commissioner of the Punjaub; delivered on the 10th July, 1867.

Present:

LORD CAIRNS.
SIR JAMES W. COLVILE.
SIR EDWARD VAUGHAN WILLIAMS.
SIR RICHARD TORIN KINDERSLEY.

SIR LAWRENCE PEEL.

IN the peculiar circumstances of a case of this description, in which the Government of India takes upon itself to pay out of the assets of the Ex-King of Delhi such claims as can be established against the Ex-King, their Lordships are of opinion that the Government does no more than what is incumbent upon it, when it narrowly and jealously scrutinizes claims which are made; it being within the experience of all that where the claim is against, not the person who originally contracted the debt, but those who have taken upon themselves the duty of satisfying it, exaggerated and sometimes unfounded demands come to be made. Their Lordships also think that if in those circumstances a claim were made which was found to be barred by the letter of any regulation or Statute of Limitations, the Government of India might well say that they had not taken upon themselves to provide for the payment of State demands, and that they were entitled to the benefit of any rule of limitation of that kind. Subject, however, to these observations, their Lordships think that any claim which justly and fairly, in equity and conscience, could be made and substantiated against the Ex-King, is a claim to be allowed in the investigation which the Government has instituted

before its judicial officers, irrespective of technical difficulties which might have attended legal proceedings against the King during his sovereignty, leaving of course the question of the payment of that claim when established to be dealt with in reference to the assets out of which the payment is to be made.

Now as to the bond upon which the claim is made in this case, their Lordships think that the evidence establishes to their perfect satisfaction, as it appears to have established to the satisfaction of the various Judges below, the *factum* and the existence of that bond; and they conceive that no imputation can successfully be made against the bond as an instrument in the first instance executed by the Ex-King. Their Lordships think that, with regard to the regulation as to limitation of actions, it does not apply to the present case, because the claim is made, in their opinion, within the period actually allowed by the Regulation; and even if there were any doubt as to that, there is amply sufficient reason, from the position of the Ex-King, to account for an action not having been maintained against him within the period prescribed by the rule.

Then arises the question whether the whole amount of principal originally due upon the bond remains due? No evidence appears to have been adduced tending to show any payment on account of principal. The officer of the Ex-King, who was examined, by his evidence confirms that which is alleged by the Appellant, viz. that the whole sums remain due, and that nothing has been paid on account of principal. The witness who was last examined, and who produced the documents which passed between the King and Colonel Skinner, also by his evidence tends to show that the only payments which were made were the payments through Colonel Skinner—payments which, by the very calculation and addition of them, would show that nothing could have been paid on account of principal.

It is said, however, that in the year 1852, when an action was attempted to be maintained against the Ex-King in the Court of Delhi, an action which was defeated by the plea of want of jurisdiction, the claim made was a claim for Rs. 36,000 alone.

We have not got the proceedings or the documents in that action. We have the evidence of the Appellant, who states that what was claimed in that action was the sum of Rs. 36,000. But their Lordships see no reason to doubt that if the claim in that action was upon the face of it described as a claim for Rs. 36,000, that Rs. 36,000 was nothing more than a short and compendious mode of stating the principal sum due upon the bond. Their Lordships, however, finding that the claim in the action of 1852 was for this sum of Rs. 36,000, and finding also that in the detail of the claim in the present case (printed at page 7 of the Record) the principal is taken at that amount, as on the 1st of January, 1852, and interest claimed from the 1st of January, 1852, only, are of opinion that while the Appellant is entitled in the present proceedings to recover the amount of the principal of his bond, he must be content to take his interest as from the 1st of January, 1852, until the present time.

Their Lordships, therefore, will humbly recommend to Her Majesty that the decree appealed from should be reversed, and that the Appellant should be declared to have established his claim for the principal sum appearing on the face of the bond, with interest from the date that has been mentioned, together with the costs of his litigation in the Courts below, and that he is also entitled to the costs of this Appeal.