

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of The Official Assignee in Bankruptcy v. Tan Cheng Guan, from the Supreme Court of the Straits Settlements (Settlement of Singapore); delivered the 12th July 1904.

Present at the Hearing :

LORD MACNAGHTEN.

LORD DAVEY.

LORD ROBERTSON.

LORD LINDLEY.

[*Delivered by Lord Robertson.*]

On 28th January 1902 a Receiving Order was made against the *chop* or firm Chiap Guan, of Singapore. The admitted partners of the firm were Tan Hock Hay and Eng Soon.

On 24th June 1902 the Official Assignee moved the Supreme Court of the Straits Settlements for a declaration that the Respondent was a partner in the *chop*, and that he be adjudicated bankrupt. After hearing evidence, Mr. Justice Hyndman Jones, on 29th July 1902, granted the Order, and this Judgment was reversed on appeal by the Court of Appeal of the Straits Settlements on the 3rd November 1902. The question in the Appeal is whether this reversal was right.

The broader facts of the case are certainly adverse to the Appellant. There is nothing to show that the Respondent either shared profits or bore losses. He took no part in the conduct of the business. As matter of fact, he was not in Singapore during the existence of the firm

except for a short time. He had a business of his own of a substantial kind, and the Respondent suggests that his wealth is the real origin of the present proceedings.

The case against him, so far as substantive acts of his own are concerned, consists of evidence of something which the Respondent said after the bankruptcy. It is enough to say that the view taken by the Supreme Court on Appeal is consistent with the evidence; for all that is proved to have been said was that the Respondent promised to pay one of the firm's creditors. Their Lordships think that the Judges on Appeal were right in not drawing from this an inference either that the Respondent intended to pay the others, or implied that he was bound to do so.

The two other points in the case stand apart from that just referred to, because the Respondent is not brought into contact with them.

It is said that in the firm's books there is a word "Kee" appended to the Respondent's name in certain entries; that the word "Kee" means partner; and that attempts seem to have been made to delete or tamper with the entry. According to the law administered in the Straits Settlements, the books of the firm were admissible as evidence, although the Respondent may have had nothing to do with them. But when it is known that the books themselves show that the word "Kee" does not always mean partner, and that the Respondent is not shown to have had anything to do with either the insertion or the deletion of the word "Kee," the weight of the evidence becomes small.

The remaining item of evidence is, that a sum of \$38,000 was taken from the Respondent's account with his own firm, and put into an account in his name in the books of the *chop*, which is now bankrupt. It appears, however,

that this was done during the absence of the Respondent, and that the Respondent's son, Hock Hay, held his power of attorney and in fact dealt with this money. There is nothing more to give rise to any inference, and in the absence of support from any independent circumstances, and having regard to the necessities of Hock Hay, this incident is consistent with other conclusions than that of partnership.

Their Lordships do not consider the matters founded on by the Appellant, whether considered separately or taken collectively, afford adequate ground for a decision against the Respondent; they are satisfied with the Judgment appealed against, and will humbly advise his Majesty that the Appeal ought to be dismissed. The Appellant will pay the costs of the Appeal.
