

*Judgment of the Lords of the Judicial Committee  
of the Privy Council, on the Appeal of William  
King v. Mante Frères and Another, from the  
Supreme Court of the Gold Coast Colony ;  
delivered December 9th 1898.*

Present :

LORD HOBHOUSE.

LORD MORRIS.

LORD DAVEY.

SIR RICHARD COUCH.

[*Delivered by Lord Morris.*]

THEIR Lordships in this case have no difficulty in advising Her Majesty to affirm the Judgment of the Supreme Court of the Gold Coast Colony.

The case is really one of fact. It has been ascertained by the Original Court, and by the Court of Appeal, that the fact, or at all events the obvious inference from the facts, was, that there was no loan made to the Defendants in this suit, the firm of Mante Brothers. They appear to have several factories; it is not necessary to mention more than two, namely, the one at Kitta, and the one at Lome. There was a clerk at Lome of the name of Lannoy, who appears to have planned to get hold of these thousand sovereigns, and who carried out his plan in a way which must cause everybody to sympathise with the Plaintiff, Mr. King. But sympathy cannot justify making other parties liable if they are not legally liable. Lannoy saw King on the day in question, in September, 1892. He made an untrue representation to King that he had been sent by the man in charge at Popo

to borrow this sum of a thousand sovereigns. King at first very prudently objected to lending it to a man of whom he did not know anything, and referred to a man named Jacobson, a native, in whom he appears to have had every confidence, and who was a clerk at Kitta. King gave the money to his sons; they brought it to Kitta, and the money was given over to Lannoy, the man who had come there to borrow it from King, alleging that he wanted it for the factories at Popo. It happened, apparently by accident, that the agent at Kitta, Bartoli, was present. The money having been handed over to Lannoy, and counted by him, it was given over to Bartoli for the moment, who put it in an iron safe. Bartoli suggested to Lannoy, that he, Lannoy, should give a receipt for it; not that he, Bartoli, who was the agent at Kitta, was to give a receipt for it, which would have been the obvious course if Bartoli imagined that Lannoy was borrowing the money on the part of the firm. Bartoli gave the money over subsequently to Lannoy; the receipt was given by Lannoy to King's sons; Lannoy departed with the money, and was never heard of afterwards.

Even on the assumption (though it is unnecessary to decide the matter) that Bartoli had made himself responsible by holding himself forward as agent of the defendants, entitled as such to pledge their credit, even on the assumption that that was so, the question of fact remains: did Bartoli borrow any money himself at all as representing the Defendants, or did he take any further part in the transaction than merely to put the money into the iron safe? It is admitted on the part of the plaintiff that if the loan was to Lannoy, he fraudulently representing that he was authorised by the agent Pomian at Lome, or by the agent, whoever he was, at Popo, if the loan was to him, and not to Bartoli as representing

the Defendants, there is no case. Their Lordships are clearly of opinion that the loan was to Lannoy, and not to Bartoli, and that Bartoli in no way held out that he was borrowing money. He never intended to borrow any money; he had no occasion to borrow any money. The loan being to Lannoy, there is nothing in the case.

Their Lordships will therefore humbly advise Her Majesty to affirm the judgment of the Supreme Court of the Gold Coast Colony. The Defendants not having appeared nothing need be said as to costs.

