

(1869) 04 CAL CK 0021

Calcutta High Court

Case No: None

Gomez

APPELLANT

Vs

Young and Others

RESPONDENT

Date of Decision: April 12, 1869

Judgement

Sir Barnes Peacock, Kt., C.J.

It appears to me that the promissory note was sufficiently stamped; it being sufficient to cover the principal sum secured by the note. The word "sum" in the English Act has been held to be the principal sum; and I see no difference between the words "for a sum payable" in the Indian Act, and the words "for the payment of the sum" in the English Statute. It appears to me to be a distinction without a difference. With reference to the losses to the Government revenue which it has been suggested might result from persons securing the principal under the name of interest, I confess I do not appreciate it. If the Government should suffer in its revenue by the adoption of such a practice for the purpose of defrauding the revenue for the sake of a few annas, it has the remedy in its own hands by amending the Act.

2. The revenue has not, as far as I am aware, been defrauded in England by the construction put on a corresponding provision of the Stamp Act. I should be very sorry to see justice defeated by holding that a man is to lose his claim by making a mistake as to the construction to be put on the Indian Act where the construction put upon it, is in accordance with the construction which has been put upon similar words in the English Statute. The greatest injustice might be caused if we were to hold that the plaintiff should lose his whole claim, simply because he made such a mistake.

3. I think the judgment of the learned Judge should be reversed, and the plaintiff is entitled to a decree for the principal and interest shown upon the note. The interest will be at the rate mentioned in the promissory note during the twelve months for which the note was to run, and at the rate of 6 per cent. per annum upon the

principal from that time to the date of decree. Interest will run on the principal and interest, from this date, at 6 per cent. The costs of suit and of this appeal will be paid by all the defendants, to be taxed on Scale No. 1.

Macpherson, J.

I am of the same opinion.