

1909. The plaintiff only became the holder of it when it was endorsed by him, on behalf of the bank, without recourse, under the authority of the letter to him from the assistant general manager of the bank, dated the 12th October, 1915.

The trial Judge found, and the evidence justified his finding, that the note was an offer to the bank to become surety to it for an advance to be made to his brother, J. H. Patrick; but the bank declined to make any such advance and never acquired any title to it; so that, when the bank, by its agent, the plaintiff, over 6 years later, endorsed the note to the plaintiff, it did not give him any title to the note, as it had no title to give.

Upon the findings of the trial Judge against the defendant on the other issues the learned Justice of Appeal expressed no opinion.

None of the authorities cited by counsel for the appellant went so far as to justify a reversal of the judgment, and none of them were under the Canadian Act, or the English Act, or even under the Negotiable Securities Act in force in any of the States of the Union.

The appeal should be dismissed with costs.

FERGUSON, J.A., agreed with MACLAREN, J.A.

MAGEE, J.A., in a short written judgment, said that, as the plaintiff never made known to the defendant that he was the beneficial owner of the note, which was made in favour of the bank of which he was the local manager, and which the plaintiff naturally supposed to have been discounted with and to be held by the bank, and as in fact the note was not endorsed by the bank to the plaintiff till long after the defendant was entitled as against the bank to suppose all liability to the bank was at an end, the plaintiff was estopped from asserting that he, and not the bank, was the owner or holder of the note. The learned Judge (Magee, J.A.) agreed with the other reasons and conclusion of MacLaren, J.A., and that the appeal should be dismissed.

KELLY, J., was of opinion that the judgment appealed from was correct and should be upheld.

*Appeal dismissed.*