

by a mortgagee to enforce its security. The mortgage was to secure a current bank account. The mortgage having fallen into default the bank appointed a receiver. Both before and after the appointment, the bank kept the account as a bank account, and from time to time rendered to the principal debtor statements of the account and obtained from him acknowledgments of their correctness. The bank also advanced moneys to the mortgagor, which were charged to the account, which were utilized by the mortgagor in preserving the mortgagee's security. The bank claimed the right to repudiate the account as it had been kept in the books and in which payments had been applied in reduction of principal instead of first in reduction of interest, and they also claimed a salvage lien in respect of the advances above referred to. The House of Lords (Lord Finlay, L.C., and Lords Atkinson, Parker and Wrenbury) held that the bank was bound by the accounts rendered, and was not entitled to have them taken on the usual basis of a mortgage account because it would be more advantageous to the bank: also that it was not entitled to any salvage lien, as the payments had not been made by the bank direct, but were treated as advances to the mortgagor and charged in his account. And that the mode of application of moneys received by a receiver prescribed by the Conveyancing and Law of Property Act was susceptible of alteration by consent of parties, and what had taken place amounted to such a consent.

CONVEYANCE—DEED SIGNED BY AGENT IN HIS OWN NAME—AGENT AND PRINCIPAL OF SAME NAME—LEGAL ESTATE—COVENANT—ELECTION TO POSTPONE PRIOR EQUITY.

*Fung Ping Shan v. Tong Shun* (1918) A.C. 403. This was an appeal from the Supreme Court of Hong Kong. The facts were somewhat peculiar. Tong Shun the respondent was a Chinese resident in Chicago. He had a nephew resident in Hong Kong, and his name when rendered into English was also Tong Shun, although when written in Chinese characters their names differed. The nephew in 1909 took a deed to Tong Shun of Victoria in the colony of Hong Kong of land in Hong Kong and the nephew signed the deed in Chinese characters in the respondent's name. The consideration for the deed was paid by the nephew with money supplied by the respondent. Afterwards, in fraud of the respondent, the nephew created an equitable mortgage on the property in favour of the appellants. In 1914 the respondent took from his nephew a conveyance of the legal estate subject to the appellants' mortgage, the nephew covenanting to pay the amount