

things, that the plaintiff was merely in the position of a creditor of Deane, who was shown to have been perfectly insolvent from the time he received the plaintiff's money in July, 1885, down to his death in July, 1887, so that the plaintiff had suffered no special damage by reason of the subsequent negligence. Upon this point the following discussion took place:

Mr. JUSTICE GRANTHAM.—That does not follow, because many a man is bankrupt for years, and goes on trading, and people get securities and get paid during all that time.

Mr. Willis.—Yes.

Mr. Bompas.—They may; but surely that is not a thing to be assumed of a bankrupt man that he will pay all his creditors.

Mr. JUSTICE GRANTHAM.—Not “all.” We have nothing to do with “all,” only with one.

Mr. Bompas.—Surely it is not to be assumed as evidence that he could pay a particular creditor.

Mr. JUSTICE GRANTHAM.—That may be, but it is a negative. You have to show that he would not—or could not—have paid Miss Muller.

Mr. Bompas.—I should have thought that I did *prima facie* show it, if I showed that he had no money, and had spent this money.

At the conclusion of the evidence the following judgment was delivered:—

GRANTHAM, J.—I am of opinion in this case that my judgment must be for the plaintiff, and with regard to the amount, I cannot say positively that the security was of the value of £450 at the time that Mr. Bompas relies upon; but I do not think I should be justified in saying that it was not, on the evidence that has been given by Mr. Nash. No doubt, Mr. Dixon Hartland only gave £350 for it; also, that to a certain extent the security was diminished in value, from something that had happened in reference to the Briton office. I do not know whether it was a fire office or a life office, but I suppose it was a life office. Still, I do not think that is sufficient evidence to justify me in saying it was worth only £350. Therefore, under the circumstances, I think my judgment must be for the whole amount; because, after all, the amount is not a question of so very much importance. I am very sorry, for Mr. Nash's sake, that my judgment must be against him, because it is quite clear that he is as innocent in this transaction as Miss Muller. Mr. Nash has been

defrauded, and I do not see anything that has happened in this case to justify me in thinking that Mr. Nash was, himself, personally negligent, as was suggested in the case of *Cleather v. Twisden*, I think, where it was stated that the other partner ought to have known what was going on, and there was sufficient evidence to have brought it home to him. I think that Mr. Nash also, by the evidence which he has given, has shown that he is an honourable man, and that there was nothing to justify him in supposing that his partner was defrauding him in this transaction at this particular time, or defrauding anybody else; but I have to decide on law, and what I believe to be the law, as applicable to a case of this nature, and although it is not necessary to say what I should have done if Mr. Willis had relied on what he suggested would have been his contention, certainly my impression at the present time is that I should have decided against him if he was simply suing for the money received by Mr. Deane, on the ground that Mr. Nash would be liable for money received by Mr. Deane, at the time it has been proved he did receive it. I do not think Mr. Nash would have been liable. But it is not put upon that ground. It is put upon the ground that Miss Muller was the client of the firm at the time that this transaction, the subject of this action, was carried out. Now, it is quite clear that she was a client of the firm at that time, because I have before me a copy of the book of the firm; whether it is the petty cash book, or account book, or ledger, or bill book, does not signify (it is the bill book, I think), and in that book appears the names of Miss A. M. R. Muller and Puttock. This is in the book of Deane & Nash; and there is the charge against her of £9, 15s. 8d. It turns out—as it generally does in these cases—that they get the money from Messrs. Raper & Freeland afterwards; but Miss Muller is the person, as far as I understand, who is charged, and supposing they did not get the money from Raper, I should be very much surprised if they could not recover it from Miss Muller. Miss Muller is their client, and it is only by arrangement that they get the money from the other side, the mortgagee. But supposing there is any difficulty in getting it, I should think that Miss Muller would be responsible to them because, as she says herself, she considered she was going there as a client to the firm of solicitors, and would be responsible