

The learned Judge said that he paid no attention to the placing of the letters "S.L. & C." upon the receipt, as that could not have been understood by the plaintiff.

The case of *Mediterranean and New York S.S. Co. Limited v. Mackay*, [1903] 1 K.B. 297, did not justify the contention that the statement in the shipping receipt was conclusive and not subject to any explanation or controversy.

The receipt was not conclusive, and might be controverted by evidence shewing that the goods were not received. The railway agent had no authority to make a contract of carriage so as to bind the defendants, save in respect of goods actually received by him.

Reference to *Leduc v. Ward* (1888), 20 Q.B.D. 475, 479; *Smith & Co. v. Bedouin Steam Navigation Co. Limited*, [1896] A.C. 70, 75, 77.

The receipt cast the onus upon the defendants; but, when the circumstances in which that receipt was given were looked into, it was seen that it was based entirely upon the statements of the plaintiff; and there was much in his testimony which indicated that there might have been an error as to the number of packages.

The question resolved itself into an issue of fact—did the defendants deliver to the plaintiff all the goods actually received from him? Upon the evidence, the issue must be determined in favour of the defendants.

The two planks or boards (value \$3) which were placed in the car were lost in the railway freight-sheds in Toronto, and they should not be included in the above finding.

Judgment for the plaintiff for \$3, with Division Court costs, subject to a set-off.

MASTEN, J.

MAY 3RD, 1918.

***RALSTON v. TANNER.**

Contract—Sale of Land—Agreement between Physician as Purchaser and Patient as Vendor—Confidential Relationship—Lack of Independent Advice—Unfairness of Agreement in Certain Respects—Gift of Part of Purchase-price to Brother of Patient—Action by Son and Devisee of Patient to Set aside Agreement—Evidence—Onus—Findings of Fact of Trial Judge.

Action by the only son and sole devisee and legatee under the will of Samuel Archibald Ralston, deceased, to set aside an agree-