

Mr. Justice Blackburn in *Schilsky v. Westenholz*, L.R. 6 Q.B. 155, 24 L.T.R. 93, says the true principle on which the judgments of foreign tribunals are enforced in England is that "the judgment of a court of competent jurisdiction over the defendant imposes a duty or obligation on the defendant to pay the sum for which judgment is given, which the courts of this country are bound to enforce; and consequently anything which negatives that duty, or forms a legal excuse for not performing it, is a defence to the action"; and in that case, where a judgment had been obtained in default of appearance in a foreign court against a defendant who at the time of the commencement of the suit was not a subject of, nor resident in, the country where the judgment was obtained, it was held that the plaintiff could not succeed here as there existed nothing imposing on the defendant any duty to obey the judgment. No territorial legislation can give jurisdiction which any foreign courts ought to recognize against absent foreigners, who owe no allegiance or obedience to the power which so legislates: *Sirdar Gurdial Singh v. Rajah of Faridkote*, [1894] A.C. 670. Lord Selborne in the *Faridkote* case says that the plaintiff "must sue in the court to which the defendant is subject at the time of the suit"; and again, "when the action is personal, the courts of the country in which the defendant resides have power, and they ought to be resorted to, to do justice."

In other words (as explained by Mr. Justice Scrutton in *Phillips v. Batho*, 135 L.T. Jour. 286), the English courts will not enforce a German judgment against an Englishman for damages for breach of contract to be performed in Germany, when the Englishman was not in Germany at the issue of the process and had not submitted to German jurisdiction, for the Englishman can be sued on the contract in his own courts, which will do justice.

These are principles upon which English courts will not enforce foreign judgments; is it possible to find positive rules upon which such judgments will be enforced? In *Rousillon v. Rousillon*, 42 L.T.R. 679, 14 Ch. D. 351, Mr. Justice Fry enumerates