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natural consequence of his own act. The court said:—

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“It must be possible to infer that it was accompanied by an intention to abandon the position of a right to exclude. No doubt such intention will be inferred where no legal title to exclude is proved to have been set up and maintained, because there is always a presumption in favour of rightful entry and retention. Such presumption is, however, rebuttable. Here the facts are these. Lal Bahadur Singh was, as we have found, a co-sharer in point of law. But he was holding under an express assertion of his title to hold as sole proprietor. He gave money and lands to his brothers in the way a sole proprietor would do. Such gifts do not save his brothers from exclusion. The cases cited to us appear to us no authority for the contrary.”

On the whole matter their Lordships are quite unable to concur with the Appellate Court in the views that Court has taken on all or most of the important points in this case. They think those views are erroneous. The judgement of the Subordinate Judge they, on the contrary, think sound and helpful. They are therefore of opinion that the decision of the Court of the Judicial Commissioner should be set aside, that the judgement and decree of the Subordinate Judge should be affirmed, and this appeal should be allowed with costs. They will humbly advise His Majesty accordingly.

Solicitor for appellant : *H. S. L. Polak.*

### FULL BENCH.

*Before Sir Grimwood Mears, Knight, Chief Justice, Mr. Justice Lindsay and Mr. Justice Dalal.*

IN THE MATTER OF A VAKIL.\*

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*February, 22. Vakil—Unprofessional conduct—Responsibility of a vakil for signing a document drafted by his senior in the case, or by his clerk.*

A vakil who signs his name to a document makes himself thereby in every way as responsible for it as if he was the

\* Civil Miscellaneous No. 43 of 1926.

original drafter of it. If it turns out that the document is one that no man acting honestly could in the circumstances have drafted, then he will be bound to answer for every word, line, sentence and paragraph, and it will not be the least defence that somebody else *e.g.*, his senior in the case, wrote it out and he only signed it. Signature implies association and carries responsibility.

If a legal practitioner puts his signature to a document, he will be deemed to have read it and to carry it in his recollection to the extent that an ordinarily competent, careful and reasonable man would carry it, and he will be bound by all the implications arising from it just as much as if he had written every word of it with his own hand. It would be no defence for him to say that his clerk had drafted the document and that he had signed it without reading it.

THE facts out of which this matter arose may be briefly summarized from the judgement as follows:—

Ganjeshri had forged three birth certificates of the sons of Jokhu Lal, the father of some of the defendants in a civil suit. Raghubir Prasad, vakil for the defendants, and Sheo Autar and Deo Narain Pandey were also involved in the conspiracy and had used these documents in court. The suit was dismissed on the strength of these documents.

Subsequently the plaintiffs, being suspicious, made careful and diligent inquiries and inspected the original registers; and on the 17th of December, 1923, they submitted to the court an application for review, which exposed the whole fraud.

In the circumstances it occurred to some one that the position might be alleviated by fresh forgeries and that the issue would be greatly confused if, instead of Jokhu Lal having only four sons, it could be proved that he had a fifth. This forgery was carried out by Ganjeshri, who obtained access to the register of deaths of mauza Patarhat and inserted the death of a son as on the 27th of February, 1905. The forgery having been committed, Ahmad Ashraf,

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another vakil for the defendants, at the request of Raghbir Prasad inspected the register. He reported to Raghbir Prasad that he had discovered the entry of the death. In making this inspection Ahmad Ashraf might have been acting innocently.

On the 3rd of January, 1924, an application was made by Ahmad Ashraf for an adjournment of the review on the ground *inter alia* of Raghbir Prasad's illness and the need for the production of evidence. This evidence was the entry in the death register of Patarhat.

Thereupon Raghbir Prasad drafted a document (Ex. 37) which was the answer to the application for review. The answer opened with an assertion that these documents were genuine copies. This was a falsehood easily and immediately demonstrable on inspection of the registers. Paragraph 3 contained a most offensive charge, entirely without foundation, of possible mal-practice by the plaintiffs in collusion with officials of the copying department or record room. Then came the allegation that besides the four sons a son was born to Jokhu Lal in 1901, who died at a very tender age on the 27th of February, 1905.

On the 10th of January, 1924, this document was sent by Raghbir Prasad to Ahmad Ashraf and he signed it.

Raghbir Prasad, Deo Narain and Sheo Autar were put upon their trial under sections 466 and 193 of the Indian Penal Code and convicted. At the close of the trial, the Sessions Judge called the attention of the High Court to the conduct of Ahmad Ashraf.

Notice was issued to Ahmad Ashraf to show cause why disciplinary action should not be taken against him for having on the 10th of January, 1924,

joined with Raghbir Prasad in filing a petition of reply to an application for review of judgement presented by the plaintiffs, well knowing that the said petition contained false statements and intending fraudulently and dishonestly thereby to defeat the said application. The further charge was in respect of statements made by him on the 24th of September, 1924, in the court of the Committing Magistrate, which were known by him to be untrue, and made with the object of dissociating himself from Raghbir Prasad and the other conspirators.

Dr. *Kailas Nath Katju* (with him Mr. *A. Sanyal*), for the Vakil.

The Government Advocate (*Babu Lalit Mohan Banerji*), for the Crown.

The judgement of the Court (MEARS, C. J., LINDSAY, and DALAL, JJ.) after setting out the facts proceeded as follows:—

We invited Ahmad Ashraf to give us some reasons which would justify his having identified himself with Raghbir Prasad in the answer of the 10th of January.

He could really give no explanation to show that he had any honest belief in the genuineness of the new case set up in paragraph 5 or of the charges of forgery, collusion and fraud made against the plaintiffs and officials in the copying and record departments.

His defence really amounted to this, that he was entitled to sign anything that Raghbir Prasad submitted to him, that no matter how unfounded or scandalous the statements might be and how great an abuse of the privileges of counsel or of the processes of the court, he was protected by the fact that the document had been drafted by a man senior to him.

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This sort of defence has been put up more than once, and we wish the profession to understand that a man who signs his name to a document makes himself thereby in every way as responsible for it as if he was the original drafter of it. If it turns out that the document is one which no man acting honestly could in the circumstances have drafted, then he will be bound to answer for every word, line, sentence and paragraph, and it will not be the least defence that some body else wrote it out and he "only signed it." Signature implies association and carries responsibility. We are of opinion that Ahmad Ashraf having already been told that forgeries had been committed, and having accepted that statement, and being, as he says, frightened on the 8th of January, could not honestly have believed the assertions of forgery by the plaintiffs and court officials alleged by Raghubir Prasad on the 10th of January. Even if the very definite statements in the application for review as to the actual non-existence of X, Y and Z had been doubted by him, a visit to the Collector's office and a five minutes' inspection of the registers would have convinced him of what he already had little doubt about, that the defendants were the forgers and not the plaintiffs.

We therefore find that Ahmad Ashraf did on the 10th of January, 1924, join with Raghubir Prasad in filing the document of that date, and that he well knew that the petition contained false statements, and that these were made to deceive the court and fraudulently and dishonestly to defeat the application.

The second part of the charge against Ahmad Ashraf can be dealt with quite shortly.

When he was examined as a witness on the 24th of September, 1924, the Magistrate was anxious to

ascertain to what extent he had been previously connected with Sheo Autar, Deo Narain Pande and the defendants. He said :—“ I had no concern with Sheo Autar, Deo Narain and the defendants from before and to the best of my recollection I did not appear as a pleader for them in any case previous to this.” He, in fact, was at the very time appearing for the defendants in another case which had been instituted shortly before No. 298 of 1923 and he was in fact engaged in August 1924 (*i.e.* a month before making his deposition) in execution proceedings in that very case.

He sought to justify his answer to the Magistrate by telling us that he thought the point of the question turned upon the words “ from before ”—that he made a mistake in not remembering that the other case was in fact earlier in date. He also said that on the 24th of September, 1924, he had forgotten that he had signed three papers in August with reference to the execution proceedings.

These answers did not meet with our approval, nor did we give weight to the argument which was addressed to us. It was said, as it has been before in these cases, that it is the common practice of clerks in the mofassil to draft applications and documents even of importance and that the vakil almost invariably signs them without reading them. Ahmad Ashraf explained that he had not read any one of the documents in the execution proceedings and that was why he remembered nothing about the concurrent case.

Again we wish it to be understood that a defence of this kind will not be accepted and that if a legal practitioner puts his signature to a document, he will be deemed to have read it and to carry it in his recollection to the extent that an ordinarily competent,

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careful and reasonable man would carry it, and he will be bound by all the implications arising from it just as much as if he had written every word of it with his own hand. Practitioners must realize that if they make, or associate themselves with, statements which they know are dishonest and untruthful, for the purpose of misleading the court, they must on proof of misconduct bear personal responsibility, and that it will be no defence for them to say that it was done in the interests of the client or at his instigation or at the instigation of a colleague at the bar, or that they were so negligent in the matter that they did not read the document or consider it at all.

We find the second charge proved against Ahmad Ashraf, and we suspend him on both charges for six (6) months, such periods of suspension to run concurrently.

If, subsequently, cases similar to this are brought before the court, we shall not show the future wrongdoers the leniency we now extend to Ahmad Ashraf. We assess the fee of the learned Government Advocate at Rs. 200.

### APPELLATE CIVIL.

*Before Mr. Justice Walsh and Mr. Justice Dalal.*

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 March, 8.

ABDUL ALI KHAN AND ANOTHER (DEFENDANTS) v.  
 MUHAMMAD ISMAIL (PLAINTIFF) AND RAHIM  
 BAKHSH AND OTHERS (DEFENDANTS).\*

*High Court—Duty of subordinate courts to follow findings of High Court.*

Although, even on a question of fact, inferior courts are bound to follow, on the same issues, the findings of fact pronounced by a superior court, there is a broad distinction between a decision by a court having jurisdiction to review facts,

\* First Appeal No. 185 of 1925 from an order of Jogindra Nath Chauhan, Subordinate Judge of Gorakhpur, dated the 2nd of June, 1925.