

1931  
 PINDI  
 v.  
 U THAW MA.  
 PAGE, C.J.

same." The object of the rule is to provide that when a suit is dismissed the Court *suo motu* or on application should at the same time pass an order that the attachment be withdrawn, but, in my opinion, it was never intended by the rule to provide or effect, that when a suit dies, interlocutory proceedings that are ancillary to the main purpose of the suit should not die with it. The object of an order for the attachment of property before judgment is to prevent the defendant from disposing of the property *pendente lite*, and in that way depriving the plaintiff of the opportunity of satisfying his decree by selling the property (Rule 6). If and when the suit is dismissed the object for which the order for attachment before judgment was made ceases to exist. In my opinion, both upon principle and upon authority the appeal fails and must be dismissed.

MYA BU, J.—I agree.

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### APPELLATE CIVIL.

1931  
 June 17.

*Before Sir Arthur Page, Kt., Chief Justice, and Mr. Justice Mya Bu.*

C. JORDEN

v.

MAUNG BA CHIT.\*

*Letters Patent, Clause 13—Suit continued by receiver of an insolvent's estate—Order dispensing with security—Order whether a 'judgment'—Appeal.*

An order directing that the receiver of an insolvent's estate should not be required to give security for the costs of a suit filed by the debtor before his insolvency, and continued by the receiver, is not a 'judgment' within clause 13 of the Letters Patent, and is not appealable.

*Doctor* for the appellant.

*K. C. Bose* for the respondent.

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\* Civil Miscellaneous Appeal No. 52 of 1931 from the order of this Court in the Original Side in Civil Regular No. 551 of 1928.

PAGE, C.J.—In this case an order was made by a learned Judge on the Original Side of the Court directing that the receiver of an estate in insolvency should not be required to give security for the costs of a suit filed by the debtor before he became insolvent, and which the receiver has elected to continue, under Order 22, rule 8, of the Civil Procedure Code.

A preliminary objection has been taken to the competency of the appeal upon the ground that such an order is not a "judgment" within clause 13 of the Letters Patent of this High Court. In my opinion the preliminary objection must prevail. The effect of this order is merely to direct that the receiver be not required to give security. It is an order relating to procedure, and it does not put an end to the suit, or in any way affect the merits of the suit, in whole or in part. I am of opinion that such an order is not a "judgment" within clause 13 of the Letters Patent. For these reasons, in my opinion, the appeal fails, and must be dismissed.

MYA BU, J.—I agree

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