

BANKOLE-BRIGHT v. FELIX and FELIX

West African Court of Appeal (Young, Ag. C.J. (Sierra Leone)):
October 30th, 1930

5 [1] Civil Procedure — appeals — right of appeal — financial limit for appeal to
Privy Council as of right — costs of suit cannot be added to amount in
dispute to bring it within financial limit of appeal as of right: Under the
West African (Appeal to Privy Council) Order in Council, 1930, art.3(a),
an appeal to the Privy Council does not lie as of right unless the value
10 of the matter in dispute is £500 or upwards, and the costs of a suit
cannot be added to the amount in dispute in order to bring it above this
figure so as to allow the appellant to appeal as of right (page 193, lines
13—16).

[2] Civil Procedure — costs — costs of suit cannot be added to amount in
dispute to bring it within financial limit of appeal as of right: See [1]
15 above.

[3] Courts — Judicial Committee of Privy Council — right of appeal —
financial limit for appeal to Privy Council as of right — costs of suit
cannot be added to amount in dispute to bring it within financial limit
of appeal as of right: See [1] above.

20 In an action by the appellant against the respondents, the West
African Court of Appeal gave judgment for the respondents in the
sum of £491.5s.6d.

The appellant then applied for leave to appeal to the Privy
Council under art.3(a) of the West African (Appeal to Privy
25 Council) Order in Council, 1930, contending that the costs of the
action should be added to the judgment debt in order to bring
the appealable amount over £500, thus allowing him to appeal as
of right.

The application was dismissed.

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Cases referred to:

(1) *Chowdry v. Chowdry* (1860), 8 Moo. Ind. App. 262; 19 E.R. 530,
followed.

35 (1) *Great W. Ry. of Canada v. Braid* (1863), 1 Moo. P.C.C. N.S.101; 8 L.T.
31, followed.

Legislation construed:

West African (Appeal to Privy Council) Order in Council, 1930 (No. 1 of
1930), art. 3:

40 "Subject to the provisions of this Order, an Appeal shall lie —

(a) As of right, from any final judgment of the Court, where the matter in

dispute on the Appeal amounts to or is of the value of £500 sterling or upwards. . . .”

Beoku-Betts for the appellant;
Boston for the respondents.

YOUNG, Ag. C.J.:

This is an application for conditional leave to appeal under art.3(a) of the West African (Appeal to Privy Council) Order in Council, 1930, from a judgment of the West African Court of Appeal to the Privy Council. In the Court of Appeal judgment was entered for the plaintiffs-respondents for £491.5s.6d. which included interest. It is now contended by counsel for the appellant that the costs should be included for the purpose of bringing the appealable amount over £500. It has been laid down in many cases that where an appeal does not lie for matters below a certain value the costs of the suit cannot be taken in as forming part of the amount in controversy: see *Chowdry v. Chowdry* (1) and *Great W. Ry. of Canada v. Braid* (2).

This application is on all fours with the above quoted cases, and the learned counsel for the appellant had no argument to offer against them.

I have no hesitation in coming to the conclusion, without calling on counsel for the respondents, that this application must be dismissed with costs.

Application dismissed.