

SANTACANA v ARDEVOL

Privy Council
8 May 1830

Appeal — whether the discrediting of witnesses by the trial court can ground an appeal.

In an action for money had and received, the defendant (the appellant) admitted the claim but pleaded a set-off and called evidence to prove it. The court rejected his evidence. He appealed on the ground that the decree was contrary to the evidence.

Held: As a general principle, no appeal will lie on the ground that the trial court discredited the witnesses produced by either party.

The Master of the Rolls: Their Lordships are of opinion that they ought to decide this question upon general principle, and not upon a mere point of form. ¹ The court below proceeded on the ground that they discredited the witnesses on the part of the appellant. This Board never heard of an appeal having been instituted on the ground that witnesses had been discredited; the court below were aware of the character of those witnesses; and besides the knowledge of their character had the advantage of seeing their demeanour and behaviour, of which we on written evidence have no power of judging. We feel it our duty therefore to decide this case on the general principle, that no appeal will lie from the judgment of a court below on the ground that the court discredited the witnesses produced to them by either party.