found: at pp. 129, 130; (1982) 2 NSWLR 769.

[HIGH COURT OF AUSTRALIA.]

GRANT . . . . . APPELLANT;
DEFENDANT,

AND

JOHN GRANT & SONS PROPRIETARY LIMITED . . . . . RESPONDENT.
PLAINTIFF,

H. C. OF A. 1954.

SYDNEY. *April* 8, 9;

MELBOURNE, *June* 1.

Dixon C.J., Webb, Fullagar, Kitto and Taylor JJ.

Contract—Deed of release—Recitals—Limitation—Claims not in contemplation unaffected—Equitable considerations affecting release—General words.

The general words in a release are limited always to that thing or those things which were specially in the contemplation of the parties at the time when the release was given.

London & South Western Railway Co. v. *Blackmore* (1870) L.R. 4 H.L. 610 per Lord *Westbury*, at p. 623, applied.

In cases where to a plaintiff's claim the defendant seeks to rely upon a general release the plaintiff's right to equitable relief will depend upon the principle that a releasee must not use the general words of a release as a means of escaping the fulfilment of obligations falling outside the true purpose of the transaction as ascertained from the nature of the instrument and the surrounding circumstances including the state of knowledge of the respective parties concerning the existence character and extent of the liability in question and the actual intention of the releasor.

Decision of the Supreme Court of New South Wales (Full Court), in part affirmed, in part reversed.

APPEAL from the Supreme Court of New South Wales.

In an action brought by it in the Supreme Court of New South Wales John Grant & Sons Pty. Ltd. claimed to recover from Kenneth William Grant the sum of £5,480 2s. 10d. The declaration was framed in the form of the common money counts, particulars being shown in the writ as follows:—

Sept. 1948 to Aug. 1950.	Money payable by the defendant to the plaintiff in connection with the erection of the defendant's house at Seaforth:—	
	1. Wages paid by the plaintiff to workmen employed in connection with the erection of the said house	257 17s. 11d.

	2. Proportion of holiday pay of workers' compensation and common law risk insurance premiums and of payroll tax attributable to wages paid by the plaintiff to workmen employed in connection with the erection of the said house	309	6s.	11d.
	3. Work done in and material supplied from the plaintiff's joinery shop	272	19s.	2d.
	4. Money paid by the plaintiff for materials supplied and services rendered by various persons in connection with the erection of the said house	1,397	6s.	10d.
	5. Amount wrongly shown in the plaintiff's books of account as being payable by the plaintiff to the defendant as a credit by contra from O. A. Murcombe & Co.	200	0s.	0d.
		£2,437	10s.	10d.
31st March 1949	Money belonging to the plaintiff being cash received from the Commonwealth Reconstruction Training Scheme which was appropriated by the defendant to his own use	36	2s.	0d.
31st Aug. 1949	Money belonging to the plaintiff being cash received from the Mercantile Mutual Insurance Co. Ltd. which was appropriated by the defendant to his own use	6	10s.	0d.
	Moneys received on or about 15th August 1949 from the Commonwealth Sub-Treasury in respect of Job No. 1089 carried out for the Commonwealth Government which amount was credited by the defendant to his own account instead of to the Commonwealth	1,000	0s.	0d.
	Moneys received on or about 28th November 1949 from the Commonwealth Sub-Treasury in respect of Job No. 146 carried out for the			

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Commonwealth Government which amount was credited by the defendant to his own account instead of to the account of the Commonwealth	1,000	0s.	0d.
Moneys received on or about 2nd June 1950 from the Commonwealth Sub-Treasury in respect of Job No. 201 carried out for the Commonwealth Government which amount was credited by the defendant to his own account instead of to the Commonwealth	1,000	0s.	0d.
	£5,480	2s.	10d.

By his first plea the defendant alleged that after the claim accrued and before action the plaintiff by deed released the defendant therefrom, and by its first, second and third replications the plaintiff set out the deed in full and claimed that under the circumstances mentioned in the respective replications the deed was no answer to the plaintiff's claim.

The deed was dated 5th December 1951, and it was made between five named individuals (of whom the defendant was one) who in their combined capacity were referred to as the "H. C. Grant Family" of the first part; the plaintiff company of the second part; three other named individuals referred to as the "W. A. Grant Family" of the third part; and two other named proprietary companies, the members of which all belonged to one or other of the families mentioned, of the fourth and fifth parts respectively. The deed recited that the two named families were shareholders in the plaintiff company and had for a long time been involved in disputes which resulted in litigation which ultimately reached the High Court of Australia on appeal (*Grant* v. *John Grant & Sons Pty. Ltd.* (1)). It was also recited that since that litigation further disputes had existed between the two families, in respect of which disputes further litigation was threatened, and that after protracted negotiations the two families had resolved to settle their disputes on the terms and conditions then set out in the deed. It was further recited in the deed that Hawkesbury Sandstone Pty. Ltd., a partly owned subsidiary of John Grant & Sons Pty. Ltd., was indebted to that company to the extent of £9,468, and that the

(1) (1950) 82 C.L.R. 1.

members of the H. C. Grant family held between them 28,548 shares in the capital of John Grant & Sons Pty. Ltd. There was not any recital concerning the shares of the W. A. Grant family.

The operative clauses of the deed provided, *inter alia*, that at or prior to the completion Hawkesbury Sandstone Pty. Ltd. should pay to John Grant & Sons Pty. Ltd. the said sum of £9,468 in full settlement of its indebtedness; that H. C. Grant and Mrs. H. C. Grant should at or before settlement pay £3,832 to the plaintiff in full satisfaction and discharge of their indebtedness to it; that the plaintiff would at or prior to completion transfer its shares in Hawkesbury Sandstone Pty. Ltd. to Grant Bros. (Engineers) Pty. Ltd. for £5,515; that W. A. Grant should at or prior to completion resign from the board of directors of Hawkesbury Sandstone Pty. Ltd. and H. C. Grant should at or prior to completion resign from the board of directors and as permanent director of the plaintiff; for the allocation between the respective companies or groups of certain current contracts and for the sale by the plaintiff of items of equipment at prices amounting to £2,283; that a letter should be signed by W. A. Grant in the form set out, addressed to the plaintiff's bank with a view to procuring the bank to release securities lodged by H. C. Grant in support of the plaintiff's overdraft. Clause 12 of the deed provided as follows:—"Each of the parties hereto hereby releases the other and others of them from all sums of money and accounts and civil actions proceedings claims and demands whatsoever which any of them at any time had or has at or prior to completion against the other for or by reason or in any respect of any act, cause, matter or thing and without limiting the generality thereof the H. C. Grant family releases the defendants in the hereinbefore recited litigation from all costs in respect of the said litigation."

The first replication, as amended, denied that there ever was at any material time any dispute between the family groups concerning the moneys claimed in or the subject matter of this action.

By the second replication, as amended, the plaintiff, after incorporating the whole of the deed by reference to the first replication alleged that there never at any material time was any dispute between the plaintiff and the defendant concerning the moneys claimed in or the subject matter of this suit.

The third replication was pleaded on equitable grounds, and after incorporating the deed by reference, it alleged that the plaintiff, at the time when it executed the deed, did not know that any of the moneys now claimed were owed by the defendant to the plaintiff, and did not know that it had any claim or cause of action against

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the defendant in respect of such moneys. The replication also added that the plaintiff did not intend by its execution of the deed to release the defendant from the payment of the moneys, and added further that the defendant knew at all relevant times that he owed the moneys to the plaintiff but he did not inform the plaintiff thereof prior to the execution of the deed and the plaintiff was unaware that the defendant intended that the deed should operate in relation to the moneys claimed.

The defendant demurred to each of the three replications.

The Full Court of the Supreme Court of New South Wales (*Street* C.J., *Owen* and *Herron* JJ.) held that there should be judgment for the defendant on the demurrer to the first replication and judgment for the plaintiff on the demurrers to the second and third replications respectively.

From that decision so far as it relates to the demurrers to the second and third replications the defendant appealed, by leave, to the High Court, and the plaintiff cross-appealed against the said decision so far as it related to the demurrer to the first replication.

N. H. Bowen Q.C. (with him *M. M. Helsham*), for the appellant. The first two replications draw a distinction between a matter in dispute and a matter in the contemplation of the parties. As to the first replication the Full Court of the Supreme Court was correct in upholding the demurrer. The appellant relies on the judgment of the Full Court in respect of that replication. The words of cl. 12 of the deed would cover this dispute. Generally, it is still a question of construing the document as a whole. The deed was designed to clear up claims between the company and other parties. The companies also are parties. It is apparent that the deed seeks to achieve a dissolution between the two family groups of their joint enterprises. It is conceded that recitals may in some circumstances control the operation of a release : *Norton* on *Deeds*, 2nd ed. (1928), pp. 197, 201, 208. The appellant agrees with that general principle but in each case it is a question of construing the whole deed in the light of the actual circumstances existing and in the light of what was sought to be achieved. It is claimed by the respondent that the deed is restricted to disputes between families, but cl. 12, (a) says " each of the parties " which expression must include (i) each company, and (ii) disputes between individual members of each family ; and (b) refers to disputes arising " before completion " ; note cll. 1, 3, 9, 11. A reading restricting cl. 12 to the case of a dispute between all of one family and all of the other family is inconsistent with the actual words used and, in the light of the

facts, is not a commonsense remedy. In any case the mere fact that there is not any actual dispute is not enough; for example, the parties on the averments in the first replication may, in fact, have intended it to cover just such matters as this and believed that it did, but if not in actual dispute it would not cover it although within their contemplation. As to the second replication the Full Court overruled the demurrer on the ground that there was a principle of law, that if the matter was not in actual dispute at the time the release would not apply. *London & South Western Railway Co.* v. *Blackmore* (1) and *Cloutte* v. *Storey* (2) which were relied upon by the Full Court, do not establish that proposition and it is not a sound proposition. It cannot be stated as a bald proposition of law that if a matter is not in dispute between the plaintiff and the defendant then the deed of release cannot refer to it: *Halsbury's Laws of England*, 2nd ed., vol. 7, p. 251, par. 345; *Norton* on *Deeds*, 2nd ed. (1928), pp. 197, 201. There is a distinction between what is in contemplation and what is in actual dispute. It is agreed that if the matter is neither in contemplation nor in dispute the release will not apply. But in order to determine whether the matter is in contemplation the words of the deed must be considered in the light of all the circumstances existing at the time. The proper issue would be raised by the plaintiff denying it released. The second replication refers to disputes not in existence when the parties executed the deed. The document was designed to cover future claims arising prior to completion. It does not only refer to past disputes as set out in the recitals (*Cloutte* v. *Storey* (3)). That case is not inconsistent with the case brought by the appellant. *London & South Western Railway Co.* v. *Blackmore* (4) shows that one must look at all the circumstances to ascertain whether the matters complained of were or were not within the contemplation of the parties. That must involve a consideration of the circumstances in the knowledge of the parties at the time of the execution of the document. An intention to cover disputes not known should be express but an implied intention therefor may be gathered from the circumstances and matters actually dealt with (*Skilbeck* v. *Hilton* (5); *Urquhart* v. *Macpherson* (6)). Those cases involved dissolutions of partnerships. The case now before the Court, involving a dissolution between two families of joint ventures is much nearer to dissolution of partnership than to releases. The

(1) (1870) L.R. 4 H.L. 610, at p. 623; 38 L.J. Ch. 19.
(2) (1911) 1 Ch. 18, at pp. 33, 34.
(3) (1911) 1 Ch., at pp. 25, 33, 34.
(4) (1870) L.R. 4 H.L., at p. 623.
(5) (1866) L.R. 2 Eq. 587, at pp. 589, 590.
(6) (1878) 3 App. Cas. 831, at pp. 835-838.

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statement and pleadings indicate a division of assets between the two families. Before reading down general words regard must be had to all the circumstances. *Urquhart* v. *Macpherson* (1) is not similar to this case. The same proposition was upheld in *Manuel* v. *Phillips and Moss* (2) which although far removed from this case is significant as dealing with a claim which was discovered afterwards and was not known to the parties at the time. The third replication proceeds on the basis that the release applies but that in the circumstances averred the defendant ought to be restrained from pleading it. In such a case if the equity be (a) rectification, mutual mistake is not alleged; or (b) rectification, fraud is not alleged. A unilateral mistake may give rise to a defensive equity—but not to an attacking equity so that a person could obtain an injunction. In this case there is not any equity to obtain an injunction. The question is: could the plaintiff obtain an absolute and perpetual injunction (*Cowell* v. *Rosehill Racecourse Co. Ltd.* (3); *Bullen and Leake's Precedents of Pleading*, 3rd ed. (1868), pp. 566, 568, 569; *Common Law Procedure Act* 1899, s. 95). As an attacking equity it does not fit into any existing category. At this point this case differs from *Lyall* v. *Edwards* (4). All that is averred is a unilateral mistake. The defendant throughout intended that the deed should operate. The defendant would be entitled to some of the value, so also would H. C. Grant. The replication appears to have had its origin in *Lyall* v. *Edwards* (4) but it is not easy to determine the precise *ratio decidendi* of the judgment of *Pollock* C.B. (5). There is no such equity. Neither case averred that the defendant believed what was in the plaintiff's mind. In *Lyall* v. *Edwards* (4) the defendant did not allege that he knew what was the plaintiff's belief. In this case the equity is distinguishable because the averments are different and it would not do justice even between the parties, let alone third persons. *Moore* v. *Weston* (6) is in conflict with *Lyall* v. *Edwards* (4) and is to be preferred. The decision is correct although some of the reasoning is hard to follow: see also *Board of Fire Commissioners (N.S.W.)* v. *Dunlop* (7). Whatever *Lyall* v. *Edwards* (4) says it cannot avail the plaintiff unless in the particular circumstances equity would grant an unconditional injunction. In the circumstances of this case such an injunction would not be granted.

(1) (1878) 3 App. Cas. 831.
(2) (1907) 5 C.L.R. 298, at pp. 302-304, 308.
(3) (1937) 56 C.L.R. 605, at p. 619.
(4) (1861) 6 H. & N. 337 [158 E.R. 139].
(5) (1861) 6 H. & N., at p. 347 [158 E.R., at pp. 143, 144].
(6) (1871) 25 L.T. 542, at pp. 543, 545.
(7) (1930) 31 S.R. (N.S.W.) 253, at pp. 254, 255, 257.

W. J. V. Windeyer Q.C. (with him *T. E. F. Hughes* and *A. G. H. Cook*), for the respondent. The real issue in this case is whether or not the release covers the present claim. The court is entitled to look at the particulars: *Common Law Procedure Act* 1899 (N.S.W.), s. 24. Under the Rules of Court particulars have to be filed and upon filing they become part of the record. The court may on a demurrer look at the writ for all purposes including the purpose of ascertaining what is the subject matter of the claim (*Ryalls* v. *Bramall* (1)). The first and second replications are mutually exclusive. If the first replication is good then the second replication is unnecessary, and if the first replication is bad the converse applies. Although the word "dishonestly" is not used in the particulars the allegations could be so construed. The question is whether or not cl. 12 of the deed of release is to be restricted to matters which previously had been specifically recited. The purpose of the deed was to arrive at a settlement of the disputes referred to, and that the release should be restricted in its operation to disputes in existence at the date of completion of the deed. This particular matter had arisen long before the date of the deed. A doubt is expressed as to whether that obligation created by the deed is covered by the release. In earlier cases it was not put as dependent upon any special equitable doctrine but as a matter of construction at general law. The deed, apparently, is wide enough to cover the matter. Generality should give way to particular intent (*Henn* v. *Hanson* (2); *Morris* v. *Wilford* (3); *Simons* v. *Johnson* (4)). The general terms of a release may be restrained by the particular occasion (*Payler* v. *Homersham* (5); *Bain* v. *Cooper* (6)). Regard should be had as to what debts were referred to in the earlier part of the deed. The question of what was in the contemplation of the parties has proceeded further in courts of equity than in courts of law.

[DIXON C.J. referred to the *English and Empire Digest*, vol. 12, pars. 1664 and 1675.]

A factor of considerable importance in this case is dealt with in *Story* on *Equity Jurisprudence*, 1st Eng. ed. (1884), s. 145, p. 87. In such circumstances there is a duty to disclose. The question is still: what is the ambit of the release. It is rather a question of ultimately confining it to its proper answer and not attempt to

(1) (1848) 1 Ex. 734, at p. 738 [154 E.R. 312, at p. 314].
(2) (1663) 1 Lev. 99 [83 E.R. 317].
(3) (1677) 2 Lev. 214, at p. 216 [83 E.R. 525, at p. 526].
(4) (1832) 3 B. & Ad. 175, at p. 180 [110 E.R. 65, at p. 67].
(5) (1815) 4 M. & S. 423 [105 E.R. 890].
(6) (1842) 9 M. & W. 701, at p. 710 [152 E.R. 296, at p. 300].

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overthrow it. This was a family compromise. *Ashburner* on *Principles of Equity*, 2nd ed. (1933), p. 285, draws attention to a rule which has been in the cases as to releases. In the circumstances alleged in the replication an injunction would go. The respondent relies on *Lyall* v. *Edwards* (1) which is similar to this case. The equity on which the respondent is entitled to rely is shown in *Farewell* v. *Coker* (2), see also *Cholmondely* v. *Clinton* (3). What is requisite for a release to be effectual is dealt with in *Halsbury's Laws of England*, 2nd ed., vol. 13, p. 208, par. 198 and see the cases there cited. In a case of this kind there is a duty to state the knowledge of the parties at the time (*Turner* v. *Turner*; *Hall* v. *Turner* (4)). The appellant did know he owed the money and he did not inform the respondent. That fact sufficiently appears in the replication as it stands. The respondent was misled by not being so informed. The decision in *Moore* v. *Weston* (5) proceeds on the basis that there was not any duty of disclosure at all. The third replication comes within the principle of *Lyall* v. *Edwards* (1). It is a replication on equitable grounds, and it is fully supported on that basis. The respondent wishes to prove at the trial that the matter was not disclosed to it. The appellant knew that he owed money to the respondent and that the respondent did not so know. In substance the pleadings do accord with *Lyall* v. *Edwards* (1). Other debts were specifically referred to : *Spencer Bower* on *Actionable Non-Disclosure* (1915), pp. 103-105. In the circumstances there was an obligation of disclosure.

N. H. Bowen Q.C., in reply. The court will not refer to the particulars. They are not included in the demurrer book. It would be a departure to include the particulars. Particulars are a partial statement of facts prepared by one party. They are not part of the pleadings.

Cur. adv. vult.

June 1. The following written judgments were delivered :—

DIXON C.J., FULLAGAR, KITTO AND TAYLOR JJ. The question raised by this appeal and cross-appeal is whether any and which of three replications is good. They are replications to a plea that the claims put in suit were released. The release is contained in a deed by which certain disputes were compromised and settled. It is

(1) (1861) 6 H. & N. 337 [158 E.R. 139].
(2) (1728) 2 Jac. & W. 193 [37 E.R. 599].
(3) (1817) 2 Mer. 171, at pp. 351, 353 [35 E.R. 905, at p. 973].
(4) (1880) 14 Ch. D. 829, at p. 834.
(5) (1871) 25 L.T. (N.S.) 542.

expressed in very general words. The deed is set forth as part of the replications and much turns upon its provisions but the replications plead some additional facts which, as the plaintiff contends, result in the exclusion of the claims sued upon from the operation of the general words of the release. The first and second replications are pleaded on the footing that at law, as distinguished from equity, this consequence ensues from the facts they respectively plead, but the third replication is pleaded by way of a reply on equitable grounds.

The plaintiff, a company, sues upon the common money counts, for work done, money paid, money had and received and money found due on accounts stated. The deed upon which the defendant's plea of release depends is one to which a number of persons are parties including the plaintiff company and the defendant. Five persons including the defendant are grouped as parties of the first part and are described for the purposes of the instrument as the " H. C. Grant Family ". Then the party of the second part is the plaintiff company. Three persons form the parties of the third part and they are described as the " W. A. Grant Family ". The party of the fourth part is a company called Hawkesbury Sandstone Pty. Ltd. In the recitals it is stated to be a partly owned subsidiary of the plaintiff company. The party of the fifth part is a company called Grant Bros. (Engineers) Pty. Ltd. which the recitals say was incorporated with certain members of the H. C. Grant family as its members. According to the recitals the H. C. Grant family and the W. A. Grant family, being shareholders in the plaintiff company, became involved over a long period in disputes : the result was litigation which reached this Court : see *Grant* v. *John Grant & Sons Pty. Ltd.* (1). Thereafter further disputes arose in respect of which again litigation was threatened. The recital gives no particulars of the disputes. It is recited that after protracted negotiations the H. C. Grant family and the W. A. Grant family had resolved to settle their disputes on the terms and conditions afterwards mentioned in the deed. This recital forms the foundation of the first replication, which alleges that never at any material time was there any dispute between the parties to the deed called the H. C. Grant family and the W. A. Grant family concerning the money claimed in or the subject of the suit. There are two other recitals to be mentioned. One is that Hawkesbury Sandstone Pty. Ltd. was indebted to the plaintiff company to the extent of £9,468. The other deals with the shareholding in the

(1) (1950) 82 C.L.R. 1.

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plaintiff company of the H. C. Grant family which aggregated 28,548 shares. There is no recital concerning the shares of the W. A. Grant family, no doubt because that is not material to the subsequent provisions of the deed, which embodies a compromise or settlement proceeding on the basis that the W. A. Grant family shall take over the share interests of the H. C. Grant family. The operative part of the deed begins with a clause requiring that Hawkesbury Sandstone Pty. Ltd. should pay its debt of £9,468 to the plaintiff company; and another clause provides that the plaintiff company shall transfer its shares in Hawkesbury Sandstone Pty. Ltd. to Grant Bros. (Engineers) Pty. Ltd. for a consideration of £5,515. The shares in the latter company being in the hands of the H. C. Grant family, the result would be to leave Hawkesbury Sandstone Pty. Ltd. under the control of that group and unfettered by its debt to the plaintiff company. In accordance with this division of the interests, formerly combined, of the respective families, a clause provided that W. A. Grant himself should resign from the board of directors of Hawkesbury Sandstone Pty. Ltd. and H. C. Grant from the office of permanent director of the plaintiff company and from the board. It is provided too that H. C. Grant and his wife shall pay £3,832 to the plaintiff company in full satisfaction of their indebtedness to it. There follow clauses providing for the allocation between the respective companies or groups of certain current contracts and for the sale by the plaintiff company of a number of items of plant at prices amounting to £2,283 (presumably to Grant Bros. (Engineers) Pty. Ltd. though this is not stated). Another clause requires W. A. Grant to sign a form of letter, set out, addressed to the plaintiff company's bank with a view of procuring the bank to release securities lodged by H. C. Grant in support of the plaintiff company's overdraft. There is a general clause which may be described, perhaps somewhat loosely, as a covenant for further assurance and the deed concludes with the release with which this appeal is concerned. It is in the following terms :—" Each of the parties hereto hereby releases the other and others of them from all sums of money and accounts and civil actions proceedings claims and demands whatsoever which any of them at any time had or has at or prior to the completion against the other for or by reason or in any (sic.) respect of any act, cause, matter or thing and without limiting the generality thereof the H. C. Grant family releases the defendants in the hereinbefore recited litigation from all costs in respect of the said litigation." In order to take the liabilities for which the plaintiff company sues the defendant under the common money counts out of the operations

of this release the three replications set up certain states of fact. That set up by the first replication simply is that the plaintiff company was party to the litigation in the deed mentioned as having gone on appeal to this Court and that between the two parties to the deed described as the H. C. Grant and the W. A. Grant families there was no dispute at any material time concerning the moneys claimed in the present action. The defendant's demurrer to this replication was upheld by the Supreme Court.

The replication clearly enough depends upon a construction of the release which confines it to the subject matter of the disputes between the H. C. Grant and W. A. Grant families which the recital says they resolved to settle on the terms and conditions contained in the deed. The principle relied upon is that adopted by the common law long ago for the restriction of wide general words in a release of obligations, viz. that the general words of a release should be restrained by the particular occasion : *Knight* v. *Cole* (1). Thus the general words of a release are to be restrained by the particular recital : *Payler* v. *Homersham* (2). As it is concisely expressed by *Best* J. in *Lampon* v. *Corke* (3) : " If there be introductory matter, that will qualify the general words of the release."

The conclusion reached by the Supreme Court upon this replication means that even when the release clause in the deed is construed according to the foregoing principles the release is not necessarily confined to the disputes referred to in the particular recital. The correctness of this decision upon the first replication is brought before us by a cross-appeal on the part of the plaintiff.

The second replication is based upon a different conception of the circumstances which should provide the means of restricting the generality of the release. It depends upon the simple allegation that there never at any material time was any dispute between the plaintiff and the defendant concerning the moneys claimed in or the subject matter of the suit. The difference between the two replications lies in the difference between controlling the general words by reference to the express recital and controlling them by reference to the disputes which existed between the actual releasor (in this case the plaintiff) and the releasee (the defendant).

The principle which it is thus sought to apply was expressed by Lord *Westbury* in *London & South Western Railway Co.* v. *Blackmore* (4) as follows : " The general words in a release are limited always to that thing or those things which were specially in the contemplation of the parties at the time when the release was

(1) (1690) 3 Lev. 273 [83 E.R. 686].
(2) (1815) 4 M. & S. 423 [105 E.R. 890].
(3) (1822) 5 B. & Ald. 606, at p. 611 [106 E.R. 1312, at p. 1314].
(4) (1870) L.R. 4 H.L. 610.

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given " (1). It was expressed by *Taunton* J. in *Upton* v. *Upton* (2) in this way : " . . . the general words of a release may be limited by the particular matter out of which the release springs and the particular intent of the parties by whom the release is executed " (3).

It was decided in the Supreme Court that the second replication was good and sufficient because when these principles were applied the release should be construed as not including liabilities which were not the subject of any dispute between the actual releasor or the actual releasee. The defendant's demurrer to this replication was accordingly overruled. In the present case, of course, the release was mutual and the parties to it were numerous. The construction means that in the case of any two of the parties to the deed a claim by one against another is not to be considered as released if it was not the subject of any dispute between them at or before the time of the transaction which the deed embodies. It is difficult to see why in principle the two states of fact relied upon in the first replication and in the second replication should not be combined as supplying considerations relevant to the interpretation and application of the release clause. Indeed, it may be suggested that the matters pleaded in these two replications are no more than circumstances which must be taken into account in applying the release and that in the end the whole matter depends upon the interpretation of the release according to settled rules of construction which apply to releases. That means, in other words, that they are circumstances material to construction and might have been given in evidence under a simple traverse of the allegation that the claims put in suit had been released. The principles involved seem really to be no more than special applications of the very general principle expressed by *Bacon* : " It is a rule, that general words shall never be stretched too far in intendment, which the civilians utter thus : *Verba generalia restringuntur ad habilitatem personae, vel ad aptitudinem rei.*" (*Bacon, Maxims of the Law*, Regula III). "All words, whether they be in deeds or statutes or otherwise, if they be general and not express and precise, shall be restrained unto the fitness of the matter or person." (*Ibid.* Regula X).

The third replication rests upon equitable considerations. It depends upon the view that, whatever construction is to be given by law to the deed, in equity it would be restrained according to the knowledge and intent of the parties respectively claiming and denying the benefit of the release. The facts set up by the pleading

(1) (1870) L.R. 4 H.L., at p. 623.
(2) (1832) Dow. P.C. 400 ; 36 R.R. 817.
(3) (1832) Dow. P.C., at p. 406 ; 36 R.R., at p. 821.

are : first, that the plaintiff company did not know that the moneys claimed in the suit were owed by the defendant to the plaintiff company and did not know that it had any claim or cause of action against the defendant in respect of such moneys ; second, that the plaintiff company did not intend by its execution of the deed to release the defendant from payment of such moneys ; third, that the defendant knew at the time of the execution of the deed that he owed the moneys to the plaintiff company but did not inform the plaintiff company of that fact at or before the execution of the deed ; and, fourth, that the plaintiff company at the time of the execution of the deed was not aware that the defendant intended that the release should operate in relation to such moneys claimed in the suit. The Supreme Court overruled the defendant's demurrer to this replication.

From a very early time the Court of Chancery applied its special doctrines to the unconscientious reliance upon the general words of a release. In his *Historical Sketch of the Equitable Jurisdiction of the Court of Chancery*, at p. 246, Sir *Duncan Kerly* said : " The peculiar construction of releases in equity, which restricts their operation to matters within the contemplation of the parties, rests also partly on mistake of expression, and partly on mistake going to the substance of the transaction. This construction accorded with principles settled before the present period, and was, in fact, a development of the rule that words are to be understood secundum subjectam materiam, for ' the chief and governing rule of construction is drawn from the end or cause '." He refers to "A Treatise on Equity ", published anonymously in 1737, which Sir *William Holdsworth* attributed to *Henry Ballow* (see *History of English Law*, vol. 12, p. 191) and quotes the following : " General words in a release of all demands, or the like, shall be restrained by the particular occasion, and shall be intended only of all demands concerning the thing released." : see *Fonblanque's* Fifth Ed. of the *Treatise*, p. 440. *Story* in his *Equity Jurisprudence*, s. 145, said simply that the court restrains the instrument to the purposes of the bargain and confines the release to the right intended to be released or extinguished. Sir *Frederick Pollock*, in his *Principles of Contract*, 13th ed. (1929), p. 412, after referring to the power assumed by courts both of law and equity to put a restricted construction on general words when it appears on the face of the instrument that it cannot have been the real intention of the parties that they should be taken in their apparent sense, proceeds : " Courts of equity went farther, and did the like if the same conviction could be arrived at by evidence external to the instrument."

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The learned author then says: "This jurisdiction in modern times a well established one, is exercised chiefly in dealing with releases. 'The general words in a release are limited always to that thing or those things which were specially in the contemplation of the parties at the time when the release was given.' This includes the proposition that in equity 'a release shall not be construed as applying to something of which the party executing it was ignorant.' There is at least much reason to think that it matters not whether such ignorance was caused by a mistake of fact or of law."

Two statements of Lord *Hardwicke* may be quoted. In *Cole* v. *Gibson* (1) he spoke of "it being common in equity to restrain a general release to what was under consideration at the time of giving it", and in *Ramsden* v. *Hylton* (2) he said: "it is certain that if a release is given on a particular consideration recited, notwithstanding that the release concludes with general words, yet the law, in order to prevent surprise, will construe it to relate to the particular matter recited which was under the contemplation of the parties, and intended to be released" (3). Turning to equity, his Lordship continued: "It is impossible . . . to imply within the general release that which neither party could have under consideration, and which it is admitted neither side knew of." Lord Keeper *Henley* (afterwards *Earl of Northington*) in *Salkeld* v. *Vernon* (4) said that a release *ex vi termini* imports a knowledge in the releasor of what he releases, unless upon a particular and solemn composition for peace persons expressly agree to release uncertain demands. These doctrines are well illustrated by a decision of Lord *Langdale* in *Lindo* v. *Lindo* (5). An intestate had given bills for the repayment of a loan of £1,687 advanced for the purpose of enabling him to pay losses incurred by him in speculations in the funds, speculations which were alleged to be illegal under Sir *John Barnard's* Act 7 Geo. II c. 8. After payment of all the other debts of the intestate the assets remaining in his estate amounted to £533. The administrator agreed with the sole next-of-kin and with another relative of the deceased that this balance should be applied by the administrator towards payment of the supposedly illegal debt and that the other relative should contribute another £384 of the debt and that the rest should be made up by the administrator. A deed recited the facts and that the next-of-kin had agreed to give up all claim to any residue or surplus and it witnessed that the next-of-kin released to the administrator all his

(1) (1750) 1 Ves. Sen. 503, at p. 507 [27 E.R. 1169, at p. 1171].
(2) (1751) 2 Ves. Sen. 304, at p. 310 [28 E.R. 196, at p. 200].
(3) (1751) 2 Ves. Sen., at p. 310 [28 E.R., at p. 200].
(4) (1758) 1 Eden 64, at pp. 67, 68. [28 E.R. 608, at p. 609].
(5) (1839) 1 Beav. 496 [48 E.R. 1032].

rights, &c., in and to the personal estate of the intestate as his next-of-kin or otherwise. Subsequently the intestate's mother died and upon her death a sum of £1,333 6s. 8d. fell into the intestate's estate. This amount the administrator claimed to retain for his own benefit. Lord *Langdale* held that the release did not have an operation which would enable him to do so. His Lordship said: "It has been considered that the general words of release are to be restrained by the contract and intention of the parties, that contract and intention appearing by the deed itself or from any other proper evidence that may be adduced upon the occasion" (1). This decision was followed in *Turner* v. *Turner*; *Hall* v. *Turner* (2) by *Malins* V.C. It is a case which turned, interestingly enough, on the unexpected accrual to the intestate estate of the artist J. W. M. Turner of a large sum representing the proceeds of sale of some of his prints. A question as to the operation of a release arose out of a compromise made in relation not to the estate of the artist but that of a descendant named T. P. Turner. The estate of T. P. Turner deceased seemed insufficient to pay debts and legacies and the beneficiaries effected a compromise of their rights which they embodied in a deed. The deed, after reciting that after the death of certain annuitants in the estate of J. W. M. Turner there would be a further distribution from his estate amongst his next-of-kin, of which the late T. P. Turner was one, went on to release the executrix of the estate of all claims, the executrix paying debts and legacies. Nine years later the executrix challenged a sale which at an earlier date had been made of some of J. W. M. Turner's prints. The sale was set aside and the prints subsequently realized a sum which when divided amongst the next-of-kin or the legal personal representatives meant that the estate of T. P. Turner was increased by an amount of £9,065. This sum the executrix claimed as hers beneficially in consequence of the release but *Malins* V.C. held that the general words of the release did not cover it. His Honour said: "In a case of this kind it is the duty of the court to construe the instrument according to the knowledge of the parties at the time, and according to what they intended, and not to extend it to property which was not intended to be comprised within it . . . it has always been the rule of this court to construe releases and documents of that kind with regard to the intention of the parties and to refer in such cases to the state of the property which was known at the time" (3). The principle was briefly stated by Lord Justice *Farwell* in *Cloutte* v. *Storey* (4). "It is not in accordance

(1) (1839) 1 Beav., at p. 506 [48 E.R., at p. 1036].
(2) (1880) 14 Ch. D. 829.
(3) (1880) 14 Ch. D., at p. 833.
(4) (1911) 1 Ch. 18.

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with principle or authority to construe deeds of compromise of ascertained specific questions so as to deprive any party thereto of any right not then in dispute and not in contemplation by any of the parties to such deed" (1).

The third replication is obviously founded on the pleading held good by the decision of the Court of Exchequer in *Lyall* v. *Edwards* (2). It is not necessary to set out the equitable replication there pleaded. It is enough to say that it was upheld on grounds which are epitomized in the remark of *Wilde B.*: "The doctrine of a court of equity is, that a release shall not be construed as applying to something of which the party executing it was ignorant, and we have now to act on that doctrine in a court of law" (3). By this presumably his Lordship meant that once a replication upon equitable grounds was made possible, it became necessary for the courts of law to give no more effect to a release than it would be given in a court of equity. The decision of the Court of Exchequer was distinguished in *Moore* v. *Weston* (4). That case too was a demurrer to a replication on equitable grounds pleaded to a plea of release. The replication was modelled upon that filed in *Lyall* v. *Edwards* (2) but the court took a distinction between the two cases and held the replication insufficient. The ground of the distinction was that the particular liability sought to be enforced in *Lyall* v. *Edwards* (2) was in tort, namely conversion, and not in debt. The decision does not seem very satisfactory and if the judgment attributed by the report to *Cleasby* B. is examined with the actual pleading a confusion will be seen that must still further weaken confidence in the decision as reported.

It is convenient to deal first with the answer to the plea of release made by the plaintiff company on equitable grounds. In a sense it assumes that at law the plea of release would succeed: for otherwise, it may be supposed, there would be no ground for the intervention of a court of equity; no ground that is to say for granting a final unconditional injunction restraining the setting up of the plea of release. But it appears clearly enough that the Court of Chancery did not consider too nicely, before granting relief of that description, whether in truth the court of law would interpret the release as covering the particular liability which the plaintiff sought to enforce. If the circumstances made it inequitable for the releasee to set up the general words of a release as applicable to some particular liability which the releasor sought to enforce

(1) (1911) 1 Ch., at p. 34.
(2) (1861) 6 H. & N. 337 [158 E.R. 139].
(3) (1861) 6 H. & N., at p. 348 [158 E.R., at p. 144].
(4) (1871) 25 L.T. 542.

against him at law, the Court of Chancery might be expected to intervene to restrain a plea in spite of the existence of grounds for supposing that the court of law might itself construe the release down so that the plea would fail. There is thus no inconsistency in deciding that the third replication is good as an answer to the plea on equitable grounds and at the same time that the first or second replication is sufficient at law.

It is difficult to see why in equity the facts alleged in the third replication should be regarded as insufficient to entitle the plaintiff company to relief against the use of the general words of the release as an answer to its claim in the action. No doubt it is possible *a priori* that the release was framed in general terms in the hope of blotting out, so to speak, all conceivable grounds of further disputes or claims between all or any two or more parties to the deed, whether in respect of matters disclosed by a party against whom a claim might be made or undisclosed, of matters within the knowledge of a party by whom a claim might be made or outside it. If so the case would fall within the exception which, in the passage already cited, Lord *Northington* made from his proposition that a release *ex vi termini* imports a knowledge in the releasor of what he releases, namely the exception expressed by the words " unless upon a particular and solemn composition for peace persons expressly agree to release uncertain demands " (*Salkeld* v. *Vernon* (1)). But there is not in the contents of the deed enough to evince such an intention. It is an intention that would not be presumed in equity, and so far from its affirmatively appearing in the present case, there are certain considerations in the deed that tell against it. There is the recital of the litigation and the disputes, which may be taken to be specific enough, and of the intention to settle them on the terms embodied in the instrument. There is the careful division of interests and the reference to particular things. There is the provision with respect to the debt of H. C. Grant and his wife and the mention of its amount and the stipulation that payment of that amount should be in full discharge of their indebtedness to the plaintiff company. In short the transaction appears to be based on a particular consideration of the situation in which the parties stood to one another.

From the authorities which have already been cited it will be seen that equity proceeded upon the principle that a releasee must not use the general words of a release as a means of escaping the fulfilment of obligations falling outside the true purpose of the transaction as ascertained from the nature of the instrument and

(1) (1758) 1 Eden, at pp. 67, 68 [28 E.R., at p. 609].

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the surrounding circumstances including the state of knowledge of the respective parties concerning the existence, character and extent of the liability in question and the actual intention of the releasor.

The facts stated in the third replication if true would show that the plaintiff company did not know of the defendant's liability it now seeks to enforce, did not intend to release it as part of the transaction and did not know of any intention on the part of the defendant that it should be released. The allegation that the defendant knew of the obligation but did not inform the plaintiff company may be introduced as bearing upon the unconscientiousness of the defendant's reliance upon the general words of the release, but it does not seem to be essential to the application of the governing principle of equity. Doubtless it was not meant as an allegation of non-disclosure where a duty of disclosure existed. It is not the avoidance of the transaction for non-disclosure that the plaintiff wants, but the limitation of the operation of the general words so as to exclude the causes of action sued upon. It was argued for the defendant that at best the facts pleaded gave rise to an equity to have the contract contained in the deed rescinded. To put it in another way, that to restrict the operation of the release so as to exclude the claim in the action on the grounds disclosed by the pleadings would be to alter the contract to the prejudice of one party and that it must therefore either stand or be wholly set aside so that the parties might be remitted to their former position ; and for this contention reliance was placed upon *Urquhart* v. *Macpherson* (1). It may at once be conceded that there may be cases where the reasons for precluding the defendants from relying upon the release go to validity of the contract or where it would not be in accordance with the principles of equity to deny to the defendant his legal right under the release except as part of a rescission of the whole transaction. But they are cases depending on mistake, failure in a duty of disclosure, misrepresentation or other ground of avoidance. They are not cases depending on the equity to have the general words of a release confined to the true purpose of the transaction ascertained from the scope of the instrument and the external circumstances. It is under that principle that the facts alleged in the third replication bring the case. This does not necessarily mean that the equitable consequences flowing from those facts cannot be qualified or affected by additional matter ; for equities are not the products of completely rigid categories. But standing alone as the allegations do they afford an equitable answer to the plea of release ?

(1) (1878) 3 App. Cas. 831.

This conclusion does not make it unnecessary to consider the first and second replications. For the allegations in the third replication may perhaps not be proved and the appeal covers the demurrers to the first two respective replications. Both replications appear really to be argumentative traverses of the plea that the plaintiff by deed released the defendant from the alleged claim.

But if the deed be applied to the facts alleged in the first replication and no more appears there is certainly a question as to the construction of the deed on which the defence of release must depend. The recitals state clearly enough that the parties called the H. C. Grant family and the W. A. Grant family had resolved to settle their disputes on the terms and conditions of the deed and they contain a description of those disputes sufficient presumably for them to be identified by evidence. In reciting that the two families so denominated have been involved in disputes resulting in the litigation and that further disputes have existed between them, the instrument can hardly be taken to mean that each and every member of the one family group was in active disputation with each and every member of the other family group on each and every issue arising. The expressions "W. A. Grant Family" and "H. C. Grant Family" are adopted by the deed to describe respectively a plurality of individuals and the recital may be supposed to refer to the sides on which the individuals ranged themselves in the disputes rather than to the joint nature of any rights claimed by one side against another. Thus although the rights claimed in this action belong to the company they might have been the subject of dispute between the respective family groups or members thereof and there is no reason to doubt that in that case the claim would have fallen under the recitals.

The question is whether upon a proper interpretation of the deed the general release clause should be restrained to matters in dispute within the meaning of these recitals. The question depends primarily on the application of the prima facie canon of construction qualifying the general words of a release by reference to particular matters which recitals show to be the occasion of the instrument. But it is also affected by the general tenor of the deed. It is unnecessary to say more about the canon of construction or to discuss further the contents of the deed. As to the first all that remains is to apply the principle that prima facie the release should be read as confined to the matters forming the subject of the disputes which the deed recites. As to the second, such indications as can be found in the provisions of the deed point rather in the same direction. The detailed character of the terms of settlement, the

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careful readjustment of rights, the specific reference to the debt of H. C. Grant and his wife and its discharge and the particularity of the allocation of things and contracts between the companies do not favour the view that a general release was intended going outside the actual area of dispute.

These reasons suffice to show that the demurrer to the first replication should have been overruled. On the other hand this view makes it more difficult to sustain the second replication. For it suggests that the release should not be restricted by reference to the existence of a dispute or the subject matter of disputes between the companies or one of them and a particular party to the deed but rather a dispute thereon between members of the respective family groups. It is a different criterion or *discrimen*. The company need not be a party to the dispute between members of the family groups even if a liability to the company is a subject of the dispute. The result is that the demurrer to the second replication should be allowed.

For the foregoing reasons the cross-appeal should be allowed and judgment for the plaintiff should be given on the demurrer to the first replication. As to the second replication, the appeal should be allowed and judgment given for the defendant. As to the third replication, the appeal should be dismissed. The appellant should pay the costs of the appeal.

WEBB J. The procedure followed in this action, the material facts and the relevant authorities are set out in the reasons for judgment of the other members of the Court.

I think it assists in the solution of the problems raised by the demurrers to consider what would have been the position if the plaintiff had been satisfied simply to deny the defendant's plea of release by deed and the action had then proceeded to trial. In that event the defendant to succeed in his defence would have been required to prove (1) the deed of release; and (2) that before its execution there existed a dispute between the H. C. Grant family and the W. A. Grant family as to the claims now in question. The burden of proof on the defendant to that extent would have been due to the recitals in the deed indicating that the disputes settled by the deed were disputes between the two families; and so it would have been necessary for the defendant to prove not merely the deed of release but also that the disputes between the two families included a dispute about the claims in this action between the plaintiff company and the defendant, Kenneth Grant. Clearly there could have been a dispute between the two families

about those claims, seeing that they are for moneys due by a member of the H. C. Grant family to the plaintiff company in which the W. A. Grant family were shareholders before and after the execution of the deed of release.

If the defendant had discharged this onus of proof it would still have been open to the plaintiff to prove as a bar to the release that it was ignorant of the existence of the claims in the action when the release was executed. But according to *Moore* v. *Weston* (1) the plaintiff would also have had to prove that the defendant was aware of the plaintiff's ignorance at that time: see also *Board of Fire Commissioners (N.S.W.)* v. *Dunlop* (2). *Moore* v. *Weston* (1) was referred to in the argument but not in the judgment in *Dunlop's Case* (2); but it appears from the reasons for judgment of Sir *Phillip Street* C.J. (3) that the court relied for the equity against the defendant on the allegation by the plaintiff that the defendant was aware of the plaintiff's assumption of the restricted nature of the release when it was executed. This allegation was not usual in such cases. As appears later, I think it entailed a risk of revealing fraud on the part of the defendant and possibly of defeating the equity relied on, which assumes that the release is valid, but subject to the equity. *Moore* v. *Weston* (1) distinguished *Lyall* v. *Edwards* (4) on a ground which seems to me to have been beyond question, i.e. that the claim in *Lyall's Case* (4) was for tort, while the release relied on was of debts or of claims *ejusdem generis*. It is noted that *Martin* B. was a member of the court in both cases and that he and *Wilde* B. expressly relied on that ground in *Lyall's Case* (4). But it appears that *Moore* v. *Weston* (1) was not in line with earlier authorities to which the joint judgment refers, although, as noted by their Honours, in *Ramsdem* v. *Hylton* (5) Lord *Hardwicke* said, in speaking of the position in equity, "It is impossible . . . to imply within the general release that which *neither* party could have under consideration and which it is admitted *neither* side knew of" (6). The italics are mine. Similarly in *Lyall's Case* (4) *Martin* B. said that "if a release is given for a particular purpose, and it is understood by the *parties* that its operation is to be limited to that purpose . . . a Court of equity will interfere and confine it to that which was in the contemplation of the *parties* at the time it was executed" (7). The italics are mine. These quotations suggest that there is no equity if only one party was ignorant of the claim; but *Moore* v. *Weston* (1)

(1) (1871) 25 L.T. 542.
(2) (1930) 31 S.R. (N.S.W.) 253.
(3) (1930) 31 S.R. (N.S.W.), at p. 258.
(4) (1861) 6 H. & N. 337 [158 E.R. 139].
(5) (1751) 2 Ves. Sen. 304 [28 E.R. 196].
(6) (1751) 2 Ves. Sen., at p. 310 [28 E.R., at p. 200].
(7) (1861) 6 H. & N., at p. 347 [158 E.R., at p. 144].

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decided there was an equity if one party was aware of the other's ignorance.

With some hesitation I have decided not to apply the reasoning in *Moore* v. *Weston* (1). The judgment of *Martin* B., in which *Bramwell* and *Cleasby* BB. concurred, indicates that to establish an equity against a defendant setting up a release a plaintiff must allege or charge *fraud* on the part of the defendant in keeping back from the plaintiff the knowledge of the fact that the debt claimed to have been released was owing from the plaintiff to the defendant. But to be guilty of such a fraud the defendant would I think have to be aware of the plaintiff's ignorance when it executed the release; and the allegations made by the plaintiff in its third replication do not appear to me to imply that the defendant was then aware of the plaintiff's ignorance. But if fraud is established the release becomes vitiated, whereas, as I understand the position, the equity relied on here assumes that the release is otherwise sacrosanct. There would be no need for the equity if the release were vitiated.

It may seem remarkable that, say an utterly indifferent plaintiff should acquire such an equity based solely on his own inexcusable ignorance against a defendant to whom no fault can be imputed, not even mere inadvertence; yet the authorities apart from *Moore* v. *Weston* (1) indicate that such is the case.

It follows that in my opinion the Full Court should have overruled the first demurrer, for the purposes of which it was assumed that there was no dispute between the two families as to the claims in the action. The Full Court took the view that the deed of release was not limited by its recitals to the settlement of disputes between the two Grant families; whereas, with great respect, I think that it was so limited, but that the claims in the action could have been the subject of dispute between those families.

As to the second demurrer, this would in my opinion have been rightly overruled by the Full Court only if the plaintiff had repeated its allegation in the first replication that there was no dispute between the two families as to the claims in the action: it was not enough to allege merely that there was no dispute between the parties to the action when the release was executed. I do not understand the position to be that an allegation in one replication is to be deemed to be repeated in any other replication. I think then that the second demurrer should have been allowed.

As to the third demurrer, this should in my opinion have been overruled as there was an equitable bar to the release even if the defendant was not aware of the plaintiff's ignorance, when it

(1) (1871) 25 L.T. 542.

executed the release, as to the operation of the release on the claims in the action.

The defendant's appeal to this Court is against the overruling of his second and third demurrers; and the plaintiff's cross-appeal is against the allowing of the first demurrer. For the reasons I have given I would allow the appeal as to the second demurrer and dismiss it as to the third demurrer. I would allow the cross-appeal. I would order the appellant to pay the costs of the appeal and cross-appeal.

As to the first replication cross-appeal allowed and order of Supreme Court varied by entering judgment thereon for the plaintiff on the first replication instead of for the defendant. As to the second replication appeal allowed and order of Supreme Court varied by entering judgment thereon for the defendant instead of for the plaintiff. As to the third replication appeal from the order of the Supreme Court entering judgment thereon for the plaintiff dismissed. Appellant to pay the costs of the appeal including the cross-appeal.

Solicitors for the appellant, *Robert Burge & Co.*
Solicitors for the respondent, *Allen, Allen & Hemsley.*

J. B.