

FISHER,  
C.J.  
&  
GRIM-  
SHAW,  
ACTING P.J.  
1923  
October 13

[FISHER, C.J. AND GRIMSHAW, ACTING P.J.]

AHMED FÉRID EFFENDI HASSAN

v.

AYSHE HANIM HAJI YARIM

AND

AHMED RAIK FAKKI

FATMA HANIM HUSSEIN.

*Respondents.*

COLLUSION—CREDITOR UNDER LAW 7 OF 1886.

APPEAL of plaintiff from an order of the District Court dismissing an application made by him to set aside certain registrations in the name of the two respondents alleged to have been made by the defendant fraudulently to defeat his rights as a judgment creditor.

The District Court held that the appellant was not a *bona fide* creditor, and therefore not entitled to claim the benefits of the Fraudulent Transfers Avoidance Law, 1886, as he did not come to Court "with clean hands."

The facts are shortly as follows:—

Plaintiff is son of defendant and the two respondents are his brother and sister. The District Court found that defendant gave a bogus bond to plaintiff and on this plaintiff sued defendant by collusion and obtained judgment by default. The District Court also found that the judgment so obtained on the bond was to defeat the rights of defendant's other heirs, the two respondents. The District Court further stated that had the action on the bond been contested they had no doubt the plaintiff could not have proved the bond.

The District Court further found that it was immaterial if the transfers to the respondents were made without consideration or not.

For Appellant (plaintiff) *Paschalis* and *Kyriakides*.

For Respondent Ahmed Raik *Chrysaftinis* and *Crenaeos*.

For Respondent Fatma *Fadil*.

*Judgment*: Affirming the judgment of the District Court. We find the creditor was a fictitious creditor who, in collusion with a person who has made a transfer, seeks with this person to put himself and her in a position to undo it; and we find therefore that he is not a creditor within the meaning of Law 7 of 1886. If we were to hold he was a creditor within that meaning it would be to allow the law to be used improperly. We dismiss the appeal with costs.