

*Judgment of the Lords of the Judicial Committee
of the Privy Council, on the Petitions for
Special Leave to Appeal in the matter of
Quinlan v. Child from the Court of Appeal of
the Windward Islands and Quinlan v. Quinlan
from the Royal Court of St. Lucia; delivered
on the 22nd May 1900.*

Present at the Hearing :

LORD DAVEY.

LORD ROBERTSON.

LORD LINDLEY.

SIR HENRY DE VILLIERS.

SIR FORD NORTH.

(Delivered by Lord Davey.)

IN the case of *Quinlan v. Child* the proposed Appellant has already obtained leave to appeal from the Court of Appeal for the Windward Islands, and his application is that he, having obtained leave in regular form, may prosecute that appeal *in formâ pauperis*. Their Lordships will advise Her Majesty that that order should be granted.

In the case of *Quinlan v. Quinlan* their Lordships will advise Her Majesty to give leave to appeal against the order or decree of the 20th July 1899 in the separation suit, against the order or decree of the 21st December 1899 in the mortgage suit, and against the order of the 7th February 1900 directing the decree of the 21st December 1899 to be put in execution.

If it stood on the order or decree in the separation case alone their Lordships would have felt some difficulty on the statements in the petition in advising Her Majesty to grant special leave to appeal, but with regard to the mortgage suit their Lordships are disposed to think that there is something which requires further inquiry and which would justify them in advising Her

Majesty to grant leave to appeal from the decree in that suit.

The two suits, the separation suit and the mortgage suit, are so mixed up together that if there is to be an appeal in the mortgage suit it seems to their Lordships better that they should have the whole case before them and adjudicate (if the appeal ever comes before them) on the whole matter.

In advising Her Majesty to grant leave to appeal their Lordships ought to say that they are influenced by the fact of there being apparently no power of appeal to the Court of Appeal for the Windward Islands *in formâ pauperis*. That appears to be so from section 934 of the Civil Procedure Code which provides that with his notice of appeal the Appellant must give the names and addresses of the sureties "for the purpose hereinafter mentioned," which seems inconsistent with any application to appeal *in formâ pauperis*.

With regard to that part of the prayer of the petition which asks their Lordships to stay the sale advertised for the 26th of May pending the appeal their Lordships have no jurisdiction to make an order for that purpose, but probably the Petitioner may be advised, and if so advised will take steps by notice to the parties conducting that sale which will prevent the sale having any adverse influence upon any decree or order which Her Majesty may ultimately make when the appeal for which leave is given is heard.

Their Lordships do not propose to report to Her Majesty that it is necessary to make it part of the order on this Petition that it is to be without prejudice to any application by the Respondent to rescind the order which is made *ex parte*, but they warn the Petitioner that he must be prepared to meet any such motion if the Respondent should be advised to present a petition for that purpose. The leave, of course, will be to sue *in formâ pauperis*.