

**VIETOR & HUBER**, Appellants, v. **SAMUEL P. GROSS**, Appellee.

1. Bail is security given .by defendant for his compliance with the judgment of a court.
2. Where bail is given, courts of law will not vary, but enforce it.

Debt. On a Writ of Certiorari from the Court of Quarter Sessions and Common Pleas, Grand Bassa County.

This case comes up upon a certiorari issued by the Chief Justice upon a petition of Messrs. Vietor & Huber, German merchants, for the sum laid in their complaint. (See complaint.)

The history of this case we briefly state as follows: The appellee entered into mercantile business with the appellants several years ago as a contractor, and eventually became a defaulter to the amount of two thousand six hundred and twenty dollars, and fifty cents (\$2620.50) which sum of indebtedness was acknowledged by the appellee who, failing to pay the same, the appellants brought suit in the Court of Quarter Sessions and Common Pleas, Grand Bassa County, December Term, 1907, for said amount.

From the records sent up to this court, this suit was regularly conducted below, and terminated by a verdict and judgment in favor of the appellants. Execution and attachment were issued at the instance of the appellants in order to recover the sum of money awarded in the judgment.

The appellee failing to satisfy the demand against him by payment, was arrested, whereupon he offered and did enter into bail in which he offered himself as principal, and Mary L. Gross and James S. Gross sureties for the debt. This bond stipulated to liquidate the debt by monthly payments of \$30.00 until payment be fully made. And because of the non-fulfillment of the terms of said bond the appellee was committed to prison.

At this stage, the records show that the appellee motioned the judge of the said court for a discharge of his bond above referred to.

This motion was granted by the court in chambers, and the bail was released. Shortly after which the appellee applied to said judge to take the benefit of the Insolvency Act; this by court below was allowed. (See assignment.)

The appellant not being with this proceeding and showing that it was calculated to hinder him from recovering his debt, appealed to this court for a careful and lawful review of the proceedings in this case.

It is the opinion of this court, that there is but one question for this court's determination, the settlement of which will settle the rights of the parties.

Addressing ourselves to that point, this court says, bail is the security which is given by a defendant for his complying with the judgment of the court (see Lib. Stat., 1st Blue Book, p. 21, sec. 1) and that in all cases where bail is given that courts of law not vary, but enforce them.

Hence the judge below erred in discharging the bail, the only security to the appellant for his debt. This act of the court below tends to defeat the rights of the appellant in recovering his debt, and fraud is inferred by the subsequent application and assignment under the Insolvency Act.

This court therefore orders that the court in which this case was tried resume jurisdiction over the case and parties thereto, and issue attachment and all other necessary writs for the payment of the sum recorded in the judgment below against both principal and his sureties.

Given under our hands this 10<sup>th</sup> day of February, A.D. 1909.

By the Court.