

*Judgment of the Lords of the Judicial Committee of the Privy Council on the consolidated Appeals of A. Strauss and Company and others v. Chin Ho and Sons and others; and of Behr and Company v. (1) Chin Guan and Company; (2) Kean Leong and Company; (3) Eng Soon Chan; (4) Lim Soo Chee and others; and (5) Ong Hun Chong, from the Supreme Court of the Straits Settlement (Settlement of Penang)—P. C. Appeals Nos. 80 to 85 of 1911; delivered the 29th November 1912.*

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PRESENT AT THE HEARING:

LORD MACNAGHTEN.

LORD MERSEY.

LORD MOULTON.

[DELIVERED BY LORD MERSEY.]

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These are Appeals by the Appellants Behr and Company from judgments of the Court of Appeal of the Supreme Court of the Straits Settlements, dated the 27th February 1911, reversing in each case the judgments of the Judge of first instance.

The actions were brought to recover from the respective Defendants balances alleged to be due from them as the result of transactions in connection with a "pool" in tin said to have been formed by Behr and Company: and the only question in the cases was whether the pool contemplated by the parties had in fact ever been formed by Behr and Company. The pool was to be composed of the Defendants in the Straits Settlements and of certain merchants in

London; and it was a condition that all parties to the pool should be admitted on an equal footing. The Court below came to the conclusion that this condition was never complied with, and that the parties in London had been admitted to the pool on terms which were essentially different from those on which the Defendants had come in. The question was purely one of fact, and their Lordships having had their attention called to the evidence are clearly of opinion that the conclusion arrived at by the Court of Appeal was right. They will accordingly advise His Majesty that the Appeals should be dismissed.

It was suggested at the Bar that there might be claims between the parties arising apart from and irrespective of the alleged pool. These claims if they exist are not to be prejudiced by the present judgment. The Plaintiffs will pay the costs of the Appeals.

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In the Privy Council.

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A. STRAUSS AND COMPANY AND  
OTHERS

*v.*

CHIN HO AND SONS AND OTHERS;

AND OF

BEHR AND COMPANY

*v.*

- (1) CHIN GUAN AND COMPANY;
  - (2) KEAN LEONG AND COMPANY;
  - (3) ENG SOON CHAN;
  - (4) LIM SOO CHEE AND OTHERS;
  - (5) ONG HUN CHONG.
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DELIVERED BY LORD MERSEY.

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