

This principle was reiterated in the case of **Coca-Cola Company of Canada Ltd. v. Pepsi-Cola Company of Canada Ltd.** AIR 1942 PC 40 where Their Lordships in most categorical terms expressed the view that no judgment which was not inter partes or the one to which neither the plaintiff nor the defendant were parties could be used in evidence for any purpose. It appears that in the case referred to above the President of the Exchequer Court had relied on facts found in the judgment of the Chancellor and had drawn support from the uncontradicted evidence given by the Chancellor. The Privy Council deprecated this practice of relying on judgments which were not inter partes in the sense that a judgment in which neither the plaintiff nor the defendant were parties, and in this connection Lord Russell observed thus :

"The learned President relied on this judgment "as very formidable support to the plaintiff's contention that. . .there is likelihood of confusion ; but in Their Lordships' opinion he was not entitled to refer to or rely upon a judgment given in proceedings to which neither the plaintiff nor the defendant was a party, as proving the facts stated therein."

(emphasis supplied)

133. We entirely agree with the observations made by the Privy Council which flow from a correct interpretation of **Sections 40 to 43 of the Evidence Act.**

read in in [1983 PLRonline 0004](#)