

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Sreenath Bhattacharjee v. Ramcomul Gangooly, Gobind Chunder Mozoomdar, Gobind Chunder Sen, Taraprosono Mookerjee, and Chunder Coomar Roy, by substitution for Juggot Chunder Mookerjee, from the Sudder Dewanny Adawlut at Calcutta; delivered July 26, 1865.*

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Present :

LORD JUSTICE KNIGHT BRUCE.

LORD JUSTICE TURNER.

SIR JOHN T. COLERIDGE.

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SIR LAWRENCE PEEL.

SIR JAMES W. COLVILE.

IN disposing of this Appeal their Lordships do not think it necessary to enter fully into the details of the case. The view they take of it will be sufficiently explained by a mere general outline of the facts. Ramcomul Gangooly was originally mortgagee of the entirety of the zemindary, Pergunnah Havaleshur. He subsequently acquired the full proprietary right to and possession of the zemindary by a foreclosure suit, and suit for possession consequent thereon, and after he had thus acquired the proprietary right in the zemindary he applied for the mutation of names in the Collectorate, and was there registered as sole proprietor of the whole zemindary. The Appellant Sreenath Bhattacharjee alleges that Ramcomul Gangooly before he had acquired the proprietary right in the zemindary by an *ikrar* or agreement for sale, dated the 20th December, 1852, agreed with Taraprosono Mookerjee that in the event of his acquiring the proprietary

right, he would transfer a moiety of the zemindary to Taraprosono, and that after he had acquired the proprietary right he, by a kabala or deed of sale, dated the 31st July, 1853, transferred the moiety of the zemindary to Taraprosono accordingly. The moiety of the zemindary thus transferred to Taraprosono was, as the Appellant alleges, afterwards conveyed to him by deed, bearing date the 27th March, 1854; but this deed was not registered until the 2nd May, 1854. In the meantime, and on the 5th April, 1854, Ramcomul Gangooly by a deed of that date, in consideration of the sum of 90,000 rupees, conveyed the whole zemindary to Gobind Chunder Mozoomdar, and by a deed of even date Taraprosono Mookerjee in consideration of the sum of 15,000 rupees also conveyed all his interest in the zemindary to Gobind Chunder Mozoomdar, and on the 20th April, 1854, both these deeds were duly registered.

After the execution of these deeds Gobind Chunder Mozoomdar had possession of the whole zemindary, and he was in possession of it when the suit, out of which this Appeal has arisen, was instituted.

This suit, which is in the nature of an ejectment suit, was instituted by the Appellant against Ramcomul Gangooly, Gobind Chunder Mozoomdar, and Taraprosono Mookerjee, and several other persons, for recovering the moiety of the zemindary alleged to have been conveyed to the Appellant in manner above mentioned. The Plaintiff in the suit alleges that Ramcomul, through fraudulent motives, had disposed of the whole zemindary (including the moiety previously sold by him to Taraprosono Mookerjee) to Gobind Chunder Sen in the fictitious name of Gobind Chunder Mozoomdar, under a kabala dated the 4th April, 1854, for consideration of rupees 90,000, but the plaintiff contains no allegation whatever of any fraud on the part of Gobind Chunder Mozoomdar.

Gobind Chunder Mozoomdar by his answer wholly denies the title set up by the Appellant, and rests his case on the conveyance to him by Ramcomul. He sets up no title under Taraprosono Mookerjee, and on the contrary, he says that Taraprosono Mookerjee had no right or interest in the zemindary, but it appears, both by the answer and throughout the proceedings in the suit, that Taraprosono Mooker-

jee had under his alleged ikrar and kabala set up claims to the property, and the answer in effect, treats the release from him as obtained for the purpose of putting an end to those claims. There is a great deal of evidence in the cause with reference for the most part to the alleged ikrar and kabala set up by the Appellant; but on the hearing of the cause before the principal Sudder Ameen he dismissed the suit, and upon appeal this decree was affirmed by the Sudder Court. The appeal before us is from these decrees.

The Judgments, both of the Principal Sudder Ameen and of the Sudder Court, appear to have proceeded upon a full and careful examination of the facts of the case; but their Lordships, as they have intimated, do not find it necessary to enter upon this examination.

It appears that by the Indian Act 19 of 1843, which is set out in the Schedule to the Appellant's case, it is provided "that from the first day of May last every deed of sale, or gift of lands, houses, or other real property, a memorial of which has been or shall be duly registered according to law, shall, provided its authenticity be established to the satisfaction of the Court, invalidate any other deed of sale or gift for the same property which may not have been registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed; and that from the said day every deed of mortgage on land, houses, and other real property, as well as certificates of the discharge of such incumbrances, a memorial of which has been, or shall be, duly registered according to law; and, provided its authenticity be established to the satisfaction of the Court, shall be satisfied in preference to any other mortgage on the same property which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage, any knowledge or notice of any such unregistered deed or certificate alleged to be had by any party to such registered deed or certificate notwithstanding."

Their Lordships are of opinion that this case may well be decided, and ought to be decided, upon the provisions of this Act.

Two questions arise upon the Act: first, whether

the words at the close of the enactment, "any knowledge or notice of any such unregistered deed or certificate alleged to be had by any party to such registered deed or certificate notwithstanding," are to be construed as referring only to the mortgages and certificates mentioned in that part of the enactment which immediately precedes these words, or are to be taken to extend also to the deeds of sale or gift which are mentioned in the earlier part of the enactment; and, secondly, what meaning is to be attributed to the words "provided its authenticity be established to the satisfaction of the Court," which are contained in the enactment. As to the first question, their Lordships are of opinion that upon the true construction of the Act the words first above mentioned apply not only to deeds and certificates of mortgage, but also to deeds of sale or gift. This enactment, although divided into two branches in consequence of the different effect which is given to it as to deeds of sale and of mortgage, was plainly intended to be a general enactment. The words we are considering are words of reference, and the terms used being general and comprehensive, their Lordships see no reason for confining their operation to one branch of the enactment rather than extending it to both. Had it been intended that they should be so confined there would have been no difficulty in expressing that intention. It would be difficult to find any reason why in the case of a mortgage priority should be given to a registered deed over an unregistered deed, notwithstanding knowledge or notice of the unregistered deed by the registered mortgagee, but in the case of a sale the priority of an unregistered deed over a registered deed should be retained, in cases of knowledge or notice, by the registered vendee or donee. The too common practice in India of setting up forged and fraudulent deeds, and the security against this practice which is afforded by registration, are quite sufficient to account for this enactment extending both to sales and mortgages, and the policy of such enactments is not unknown in other countries. The Irish Registration Acts afford an instance of it. Then as to the second question. The proviso is that the authenticity of the deed be established to the satisfaction of the Court. The word "authenticity"

would seem, according to its natural meaning, to point merely at the exclusion of a forged deed from the benefit of the Act; but their Lordships think that it could not be intended by the Act that a deed which was tainted by fraud, although in other respects genuine, should be placed on the same footing as an honest and *bona fide* deed. They are not disposed so to construe the Act, but they think that at all events a registered deed cannot be deprived of the priority given by the Act, unless it be both alleged and proved that there was fraud on the part of the grantee, and in this case no fraud is alleged, and certainly none is proved, on the part of Gobind Chunder Mozoomdar. It would be going much too far to impute fraud to a purchaser upon the mere ground that he had bought up a possible claim, and so far as their Lordships can find, there is nothing beyond this affecting Mozoomdar either in point of allegation or of proof. Of course it has not escaped their Lordships' attention that there is an allegation in the plaint which suggests collusion between Mozoomdar and Taraprosono, but their Lordships see no proof of this. Upon the whole, therefore, they are of opinion that Mozoomdar's deed being first registered, must prevail over the subsequently registered deed of the Appellant, and they must therefore, without entering further into the case, humbly recommend Her Majesty to dismiss this Appeal, and with costs.

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The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. The second part outlines the procedures for handling discrepancies and errors, including the steps to be taken when a mistake is identified. The third part covers the requirements for the format and content of financial statements, ensuring they are clear, concise, and easy to understand. The final part provides a summary of the key points and offers some advice on how to avoid common pitfalls.