

SAM BASIVA  
v.  
RAGAVA.

been repeatedly held that the title acquired by adverse possession for twelve years is only equivalent to that given by a parliamentary grant of the interest vesting in the party affected by the adverse possession.

We do not consider that the existence of two daughters instead of one daughter makes any difference as to the time when the period of limitation would run against the reversioner, when the person in possession has obtained possession under an invalid alienation as in this case; none of the cases cited is on all fours with this.

We are of opinion that the ruling of the District Judge that the claim as against the 44th defendant is barred by limitation is wrong.

The decree appealed against will, therefore, be set aside so far as it relates to items other than 91, 32 and 88 and the decision of the Subordinate Judge restored. As regards the items mentioned, the decree appealed against is confirmed. The respondent will pay appellant's costs in this and in the Lower Appellate Court.

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## APPELLATE CIVIL.

*Before Mr. Justice Muttusami Ayyar and Mr. Justice Shephard.*

RAMACHANDRA AND OTHERS (PLAINTIFFS), APPELLANTS,

*v.*

VENKATARAMA AND OTHERS (DEFENDANTS), RESPONDENTS.\*

*Transfer of Property Act, s. 135 (d)—Adjudication on claim.*

In a suit upon a hypothecation bond brought by an assignee for value from the obligee, it appeared that the obligee had previously to the assignment obtained a decree by consent against the obligors for an instalment of the money due upon it, and had also made good his claim to the land comprised in it as against an attaching creditor of the obligors:

*Held*, that there had been no adjudication on the claim to exclude the rule in Transfer of Property Act, s. 135, and accordingly the plaintiff was entitled to recover only the sum paid by him for the assignment with interest from the date of payment to the date of the decree.

APPEAL against the decree of C. Ramachandra Ayyar, Acting District Judge of Nellore, in original suit No. 1 of 1888.

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\* Appeal No. 47 of 1889.

This was a suit upon a hypothecation bond for Rs. 5,599 which was executed on the 22nd June 1871 by the first defendant and the father (deceased) of the defendants Nos. 2, 3, and 11 to Rangappa Naidu, and which was assigned by Rangappa Naidu's sons after his death to the plaintiff on the 20th of April 1883.

It appeared that Rangappa Naidu sued defendant No. 1, defendant No. 2, the father of defendant No. 3, defendant No. 4, and defendant No. 11 for the first instalment of the amount due on the bond in original suit No. 131 of 1873 in the Court of the District Munsif at Nellore, and obtained a decree on the 8th March 1873, the decree being passed by consent. One Chenchu Rama Reddi, a creditor of the defendants' family, sued them in original suit No. 433 of 1873 to recover a debt, and, having obtained a decree by consent on 16th September 1873, caused the property comprised in the hypothecation bond now sued upon to be attached. Rangappa Naidu intervened in execution, claiming title under the bond and his claim was allowed on the 24th of August 1874. On 22nd December 1875, one Ayyappa Naidu obtained a decree against the defendants in original suit No. 219 of 1875; that decree was also passed by consent, and in accordance with its terms some of the land comprised in the hypothecation bond was mortgaged to satisfy the decree.

With regard to the assignment of the bond to the plaintiff, it was admitted that the assignment was taken merely as a speculation and not in satisfaction of any debt due to the assignee by the assignor, who received only Rs. 2,600 in consideration of the assignment. It further appeared that that sum was paid by instalments, which began after the expiration of one year from the date of the assignment.

The District Judge passed a decree for the plaintiff for the sum of Rs. 2,600 with interest calculated from the date of the payment of that sum to the assignor of the bond up to the date of the plaint.

The plaintiff preferred this appeal.

*Seshagiri Ayyar* for appellants.

*Mahadeva Ayyar* for respondents.

JUDGMENT.—It is first contended that, although section 135 of the Transfer of Property Act is applicable, the case falls within the fourth proviso, inasmuch as on a claim being made by the plaintiff's transferor as against third persons, who had attached

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the property in execution of a decree against the present defendants, an order was passed in favor of the transferor. Such order cannot be accepted as an adjudication within the meaning of the proviso, nor in fact was it an adjudication as between the transferor and the debtors. Our attention is next drawn to the judgment in original suit No. 131 of 1873 brought to recover the first instalment due under the mortgage. That again is no adjudication on the claim now set up. The appellants, however, were clearly entitled to interest on the price paid not only up to date of plaint but up to date of decree, and the decree must be amended by awarding interest on the sum of Rs. 2,600 at 4 per cent. for the interval. As regards interest from the date of the assignment to the date on which Rs. 2,600 was paid, we are referred to no evidence that the plaintiffs did make any payment over and above the Rs. 2,600.

As to the costs of attachment before judgment, the Judge considered the attachment unnecessary and refused to allow them as costs in the suit. We see no sufficient reason to interfere with the discretion exercised in the matter. The decree must be amended as indicated above, but in other respects is affirmed.

Under the circumstances we direct that each party do bear their own costs.

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## APPELLATE CRIMINAL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and  
Mr. Justice Weir.*

QUEEN-EMPRESS

v.

SHAIK IBRAHIM.\*

*District Municipalities Act (Madras)—Act IV of 1884, s. 103—Attachment of  
movable property—Doors of a house.*

The doors of a house are not attachable as movable property under District Municipalities Act (Madras), s. 103.

CASE referred for the orders of the High Court by A. W. B. Higgens, Acting District Magistrate of Ganjam. The facts of this case were stated in the letter of reference as follows:—

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\* Criminal Revision Case No. 631 of 1890.