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not easy to see how the doctrine of equity and good conscience referred to in the cases relied on on behalf of the plaintiff is to be held applicable to a case like this where money was lent to carry on worship under those circumstances.

Moreover, there is no ground for thinking that plaintiff's father acted *bonâ fide* in lending the money. He resided at Udipi itself where the committee which investigated the charges against Sumatindra sat, the inquiry having been conducted openly and having lasted for several months. The excommunication, the consequent quarrels and riots, the arrest of Sumatindra, defendant and others by the authorities to preserve the peace, the institution and pendency of the suit by the defendant against Sumatindra, &c., were all clearly known to the lender at the date of the loan; and it is difficult to believe that the father of the plaintiff acted like a prudent and reasonable man in granting the loan under such circumstances. We think, therefore, that the plaintiff has not made out any real or accredited necessity such as is required by law to justify the loan, and we agree with the Subordinate Judge in holding that the claim fails on the merits also.

It is, therefore, unnecessary for us to consider the minor objections raised on behalf of the defendant.

We dismiss the appeal with costs.

APPELLATE CIVIL.

Before Mr. Justice Best and Mr. Justice Subramania Ayyar.

1895. March 13, 14. April 19.

NARASAMMA (PLAINTIFF'S LEGAL REPRESENTATIVE), APPELLANT,

v.

SUBBARAYUDU AND OTHERS (DEFENDANTS), RESPONDENTS.*

Registration Act—Act III of 1877, *ss.* 21, 48, 49, 51—*Defective description of property—Deed affecting land registered in book No.* 4—*Purchaser for value.*

In a suit for land, forming part of the self-acquired property of a deceased Hindu, it appeared that in 1885 his widow and his cousin had (on the death without issue of his son) entered into an agreement whereby the latter relinquished in the widow's favour for consideration all his rights in the self-acquired property

* Second Appeal No. 1255 of 1894.

left by her husband. The agreement was registered in book No. 4 under the Registration Act, 1877, and it contained no such description of the property as to satisfy the requirements of section 21. The plaintiff since purchased the land now in question from the cousin; the defendants Nos. 1 and 2 having purchased it and obtained possession from the widow:

Held, that the plaintiff was entitled to recover.

SECOND APPEAL against the decree of G. T. Mackenzie, District Judge of Kistna, in appeal suit No. 1417 of 1892, reversing the decree of O. V. Nanjundayya in original suit No. 862 of 1889.

Suit to recover possession of certain land purchased by the plaintiff on the 29th of March 1889 from one Seshayya who was defendant No. 3. The defendants Nos. 1 and 2 were in possession under a sale by defendant No. 4, who was the widow of one Guruvarazu, a kinsman of the plaintiff's vendor. It appeared that Guruvarazu died leaving a son and a daughter by a previous wife, and that, on the death of the son, disputes arose between the daughter and the widow, with the latter of whom the plaintiff's vendor took part, and on the 1st September 1885, an agreement was executed by which, *inter alia*, the plaintiff's vendor, in consideration of Rs. 1,000, relinquished his rights in the property of the deceased man. Defendants Nos. 1 and 2 pleaded that Seshayya had no title to convey by reason of this agreement, which, however, comprised no description of the property referred to therein, and was registered in book No. 4 and not in book No. 1 prescribed by Registration Act, 1877, section 51.

The District Munsif passed a decree as prayed, but his decree was reversed on appeal by the District Judge, who found that the property in question was self-acquired property of the late Guruvarazu, but he expressed his opinion that the document of 1885 was effectively registered.

The plaintiff having died, his daughter and legal representative preferred this second appeal.

Pattabhirama Ayyar for appellant.

Rama Rau and *Sundara Ayyar* for respondents Nos. 1 and 2.

BEST, J.—It is contended on behalf of appellant (i) that, as exhibit I contains no description of the property sufficient to identify the same, as required by section 21, clause (*a*) of the Registration Act, it could not be registered, and consequently its registration was *ultra vires* and inoperative for the purposes of section 48 of the Act; and (ii) that even if the registration be held to be valid, as it was entered only in book No. 4 and not in book No. 1

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prescribed by section 51 of the Act, it is not such as to affect immovable property.

As observed by Pigot, J., in *Baij Nath Tewari* v. *Sheo Sahoy Bhagut*(1), the object of the Registration Act is to provide not only a guarantee of the genuineness of instruments, but also a record from which persons who may desire to enter into dealings with respect to property may be able to obtain information as to title—or to quote the words of the Privy Council in *Mohammed Ewaz* v. *Birj Lall*(2)—"Registration is mainly required for the purpose of "giving notoriety to the deed"; and such being the case, it is difficult to see how this object is attained, if a document relating to immovable property is registered in a book expressly prescribed for documents "which do not relate to immovable property." Section 60 of the Act requires that the document registered shall have endorsed on it a certificate of the fact of registration "together "with the number and page of the book in which the document has "been copied," and this is the certificate which is "admissible for "the purpose of proving that the document has been duly regis-"tered in manner provided by the Act."

As the original with the endorsement made thereon is returned to the party entitled to the same, he has the means of knowing what has been done by the Registrar; and if he allows to continue a mistake which he thus has the means of causing to be rectified, he has but himself to blame if he becomes a loser thereby; and his transferrees of course stand in his shoes.

In the present case the document I was executed by third defendant in favour of the fourth defendant. First and second defendants are purchasers from fourth defendant, while plaintiff is a purchaser from third defendant. First and second defendants, on seeing their vendor's title-deed, if they had exercised ordinary care and caution, must have seen the flaw in her title, whereas no amount of search in the book No. I in the Registration office would enable the plaintiff to discover that the property sold to him by third defendant did not in fact belong to third defendant as *gnati* of the last owner Gopal Rao, but to fourth defendant who is the step-mother of the last owner. Cf. *Najibulla Mulla* v. *Nusir Mistri*(3).

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(1) I.L.R., 18 Calc., 556, 570. (2) L.R., 4 I.A., 166, 175.
(3) I.L.R., 7 Calc., 196.

There is authority also for the other objection taken on behalf of appellants in *Baij Nath Tewari* v. *Sheo Sahoy Bhagut*(1), where it was held by the majority of a Full Bench that the absence of a description sufficient to identify the property renders the registration of a document invalid, and where the dissenting Judge, Petheram, C.J., differed from his colleagues only because he was of opinion that the description was in fact sufficient to identify the property.

I am inclined, however, to agree with the opinion of Straight, J., as expressed in *Hardei* v. *Ram Lal*(2), that the word, 'registered' in section 49 of the Registration Act has reference only to the Act of Registration by the registration officer; and that, if such officer has put upon the document the certificate required by section 60, it becomes admissible in evidence. The mere fact of registration is not, however, sufficient to cure defects arising from non-observance of the requirements of section 21, so as to affect property not specifically described and which has passed into the hands of third parties, though, as against the executant of the document, it might be enforceable on the principle *certum est quod certum reddi potest*. Cf. *Ramsidh Pande* v. *Balgobind*(3). As in the present case the property has passed to a third party for consideration and not only is the description not as clear as is required by section 21, but the registration itself purports to be of property other than immovable, I think plaintiff is entitled to a decree.

I would allow this appeal and, setting aside the decree of the Lower Appellate Court, restore so much of the decree of the District Munsif as awards to plaintiff possession of the land. Plaintiff is also entitled to *mesne* profits from date of suit to date of getting possession of the property—the same to be ascertained in execution of the decree—and to his costs throughout to be paid by first, second and fourth defendants.

SUBRAMANIA AYYAR, J.—I concur.

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(1) I.L.R., 18 Calc., 556, 570. (2) I.L.R., 11 All., 319, 324, 325.
(3) I.L.R., 9 All., 158.