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postponed till the mahant died. So far as the vendee is concerned, his possession certainly becomes adverse from the very moment of the sale. We, therefore, think that there is no justification for holding that adverse possession would not commence to run in the case of an out and out transfer until the mahant is dead.

This view finds support from the rules laid down by their Lordships of the Privy Council in the cases of *Subbaiya Pandaram v. Mahammad Mustapha Maracayar* (1) and *Damodar Das v. Lakkhan Das* (2), in both of which their Lordships held that adverse possession commenced from the date of the transfer.

We may also point out that the legislature itself realised the difficulty and hardship that might in some cases arise, and has accordingly intervened. Act I of 1929 adds article 134 B in the schedule, under which the suit by a new trustee can be brought within 12 years from the date of death, resignation or retirement of the transferor. We are accordingly of opinion that the view taken by the court below on the question of limitation was correct. The appeal fails and it is hereby dismissed with costs.

SPECIAL BENCH.

Before Mr. Justice Young, Mr. Justice Pullan and Mr. Justice Niamat-ullah.

IN THE MATTER OF AN ADVOCATE.*

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 May, 26.

Contempt of court—Advocate—Contempt of court committed by a person qua a party and not qua advocate—No professional misconduct—Bar Councils Act (XXXVIII of 1926), section 10.

Where a party to a litigation, who was an advocate, made false allegations in an application, involving imputations on the

*Miscellaneous Case No. 645 of 1931.

(1) (1923) I.L.R., 46 Mad., 761. (2) (1910) I.L.R., 37 Cal., 885.

fairness and impartiality of certain judicial officers, in connection with his case, it was *held* that as it was an offence committed by an individual in his capacity of a suitor and had no connection with his professional character, or anything done by him professionally as an advocate, all that the court could do was to punish him for contempt of court, but could not take disciplinary action against him under the Bar Councils Act for any professional misconduct.

Messrs. *Hasan Imam, A. Sanyal and Kumuda Prasad*, for the applicant.

The Government Advocate (Mr. *U. S. Bajpai*), for the Crown.

YOUNG, PULLAN and NIAMAT-ULLAH, JJ.:—Complaint having been made by one Suraj Prasad Dube on the 26th of November, 1929, against an advocate enrolled in this Court, this Court under the Bar Councils Act, section 10, referred the matter to the Bar Council for inquiry and report. In due course the Bar Council nominated a Tribunal for the above purpose. Several charges had been formulated against the advocate. Three charges were withdrawn by permission of the Tribunal, and they also found as regards those charges that they were not proved. The charges which were pressed against the advocate were (1) that he deliberately made false allegations involving imputations upon the fairness and impartiality of two judicial officers in proceedings connected with an execution case to which he was himself a party; [two other charges, not material to this report, were then set forth].

With regard to the first charge the Tribunal found that the judicial officers themselves accepted an apology from the advocate, that that amounted to a composition of the offence, that the composition amounted to an acquittal and that therefore the advocate must be deemed to have been acquitted of this charge. The Tribunal submitted on this that if they were right as to the effect of the apology, their finding would be that the charge

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was not proved; but that if their view was erroneous, then their finding would be that the charge was proved. With regard to the second charge, the Tribunal found the charge proved, and with regard to the third charge they found it also proved.

Notices have been served upon the advocate and the Government Advocate. The advocate is represented by Mr. *Hasan Imam* of the Patna Bar, and the Government Advocate represents the Crown.

With regard to the first charge, it is unnecessary for us to come to a conclusion as to whether the view of the Tribunal is correct in law or not. There is no doubt that the advocate committed a gross contempt of court in his allegations, in the applications filed by him, against the judicial officers. He has admitted that the allegations were unfounded, and it is obvious to us that there was no foundation whatever for the gross attacks made upon the judicial officers. The question which we have to decide is whether it is possible for this Court to punish the advocate on the disciplinary side under the Indian Bar Councils Act and to suspend or remove him from practice. We have been referred to a decision of their Lordships of the Privy Council in *In re Wallace* (1). In that case a Barrister of the Supreme Court of Nova Scotia committed a gross contempt of court in his capacity as a private suitor and not in his capacity as an officer of the court. The court suspended the Barrister from practising, and he appealed to the Privy Council. The Privy Council held that it was not competent for the court to punish him by suspension for the contempt. All that the court could do was to punish him for contempt of court. Their Lordships of the Privy Council said that "It was an offence, however, committed by an individual in his capacity of a suitor in respect of his supposed rights as a suitor, and of an imaginary injury done to him as a suitor, and it had no connection whatever with

(1) (1866) L.R., 1 P.C., 283.

his professional character, or anything done by him professionally, either as an advocate or an attorney. It was a contempt of court committed by an individual in his personal character only." Their Lordships further found that there was no element of moral delinquency in the charge against the Barrister, and that the offence might adequately be punished in the ordinary way as contempt of court. It would appear from this decision that this Court cannot deal with the advocate in this case for professional misconduct. The learned Government Advocate relied upon the case of *Sashi Bhushan Sarbadhicary* (1). In our view, that case is clearly distinguishable. The advocate concerned had been engaged as counsel in a case before the High Court. He was reprimanded by the Court, and he thereafter in his capacity of editor of a newspaper published an article which amounted to a contempt of court. In that case the High Court suspended the advocate for four years, and he appealed to the Privy Council. Their Lordships of the Privy Council in their judgment distinguished this case from the case in *In re Wallace* (2) on the ground that the matter arose through the conduct of the advocate in conducting a case in his professional capacity before the court, and the contempt which he committed was in order to vindicate his professional conduct as an advocate. We consider that in the case before us we are bound by the decision in *In re Wallace*, and therefore cannot pass an order against him under the Bar Councils Act on this charge.

[The judgment then dealt with the other two charges, and with regard to them passed an order suspending the advocate from practice for the term of three calendar months.]

(1) (1906) I.L.R., 29 All., 95.

(2) (1866) L.R., 1 P.C., 283.