

Lim Charlie and another - - - - - *Appellants*

v.

The Official Receiver - - - - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT RANGOON.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 21ST NOVEMBER, 1933.

Present at the Hearing :

LORD THANKERTON.

LORD ALNESS.

SIR LANCELOT SANDERSON.

[*Delivered by* SIR LANCELOT SANDERSON.]

This is an appeal by the defendants against a decree of the High Court of Judicature at Rangoon in its Appellate Jurisdiction, dated the 19th March, 1931, reversing the decree of Das J., pronounced on the Original Side of the High Court, dated the 4th September, 1930.

The plaintiff was appointed in a civil suit in the High Court Receiver of the house and land which is the subject matter of this suit and which is alleged to be part of the estate of the late Lim Chin Tsong. The suit was brought to recover possession of the said house and land, of which the defendants were in possession. The defendants are the son and daughter of Ma Mya May and claim to be her heirs and legal representatives. The suit was brought against the said Ma Mya May, who died during the pendency of the suit: the above-mentioned son and daughter were then placed on the record as defendants.

The question for determination was whether the property formed part of the estate of Lim Chin Tsong on his death in 1923, or whether it had become the property of Ma Mya May, who claimed to be his "secondary" wife, either (1) by gift during the lifetime of Lim Chin Tsong or (2) by title acquired by adverse possession.

With regard to the first ground, there is no doubt that the title was vested in Lim Chin Tsong, when the property was conveyed to him in December, 1904. Further, there was no registered instrument in respect of the alleged gift, and the subject matter thereof being immovable property, the provisions of Section 123 of the Transfer of Property Act were not complied with.

With respect to the second ground, it is sufficient for their Lordships to say that the facts of the case are quite consistent with the ownership of the property remaining in Lim Chin Tsong, and with Ma Mya May being in possession of the property by his permission from the time when he acquired the property until his death. There is no evidence on which it could properly be held that Ma Mya May was possessing the property in a manner adverse to the continuance of the title of Lim Chin Tsong.

Their Lordships agree with the decree of the High Court in its Appellate Jurisdiction, and are of opinion that the appeal must be dismissed with costs. They will humbly advise His Majesty accordingly.



In the Privy Council.

LIM CHARLIE AND ANOTHER

v.

THE OFFICIAL RECEIVER.

DELIVERED BY SIR LANCELOT SANDERSON.

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