

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Mussumut Chundrabullee Debia v. Luckhee Debia Chowdrain, from Bengal; delivered 1st December, 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. COLVILLE.

THIS was an Appeal from a Decree of the Sudder Dewanny Adawlut of Bengal, affirming a Decree of the Principal Sudder Ameen of the Civil Court of Mymensing, which last had reversed a Decree of the Sudder Ameen of the last named Court in favour of the Appellant. The Respondent has not appeared, and this Appeal has been heard *ex parte*.

The original suit was brought by the Respondent to recover arrears of rent for six years and nine months preceding its commencement, and the following may be taken to be the facts of the case:—The Appellant and those under whom she claims had been in peaceable and undisturbed possession of the property for more than sixty years; it is in the town Nusseerabad, and within and parcel of a 4 annas share of the Zemindaree of Pergunnah Allapsing, of which the Respondent, as mother and guardian of her son, a minor, is the proprietor in possession. The Appellant claims under a grant from the ancestor of the Respondent, which purports to have been made for the setting up an idol; and concludes thus—“Having set up the

said idol in the said house, you will enjoy the same without paying rent through sons and grandsons. For this purpose I have given you this Bromuttur Pottro." The date of this instrument corresponds with the 10th February, 1796 A.D. The idol has remained, and its worship has been continued uninterruptedly from that time. The Respondent's plaint, which was not filed until the 15th April, 1857, was preceded by no demand of rent nor any suit for the assessment of it; but the rent sued for is stated to be "in accordance with the rate of rent obtaining in lodging-houses at this place of Nusseerabad:" this rate being fixed by the Bengal Regulation XIX of 1793, section 10; on which indeed the Respondent's case entirely depends.

These are all the facts, and it seems clear that if the original grant has not been annulled by any Regulation, or if the possession has become unimpeachable by reason of the lapse of time, either of the twelve years or of the sixty years prescribed by the Bengal Regulations, or if at all events it was under the circumstances necessary that this action should have been preceded by a suit for assessment of the rent, or a demand of rent ascertained in some way or other, the original suit could not be maintained, and the two later Decrees must be reversed. They were impeached for the Appellant on all these grounds. Their Lordships, however, do not find it necessary in this case to give any opinion upon the first or third of these points, or upon the question whether under the circumstances of this case the twelve years limitation prescribed by the Regulations, ought to be held applicable to it. They have reason to believe that questions of some importance, and possibly of some difficulty, have been raised, and that some cases which were not cited at the bar have been decided in the Courts in India, bearing more or less directly on some at least of these points, and they think it would neither be prudent nor safe for them, more especially in a case which has been argued on one side only, to give any opinion which might affect these questions. Moreover, it is obvious that to decide this case upon the last of the grounds on which the Appellant relied, might only lead to renewed litigation. Their Lordships, therefore, abstain from giving any opinion whatever upon any of these points.

It may be assumed for the purpose of argument, but for that purpose only, and without the expression of any opinion by their Lordships, that all these points ought to be decided in favour of the Respondent, but they are of opinion that the Appellant was entitled to have the suit dismissed upon the ground of there having been peaceable possession by her and by those under whom she claims for sixty years before the suit was commenced, and of the suit being therefore barred by the early part of the 3rd Article of the Bengal Regulation II of 1805.

The first and second Articles, and the second branch of the third Article of this Regulation have reference to the twelve years limitation which was previously in force, explaining and qualifying that limitation; and as their Lordships do not, as has been already said, rest their judgment on this limitation, it is unnecessary to comment on these parts of the Regulation; but the first branch of this third Article provides that "nothing in the preceding clause, or in any part of the existing Regulations, shall be held to authorize the cognizance of any suit whatever in any Court of Justice, if the cause of action shall have arisen sixty years before the institution of the suit; nor shall any plea on the part of the Plaintiff for the non-prosecution of his claim of right during a period of sixty years after the origin of his alleged cause of action, nor any original defect of title on the part of the possessor of the property claimed, after the lapse of such period, be deemed a sufficient ground for taking judicial cognizance of any suit so preferred." This branch of the Article, therefore, in its very comprehensive language, embraces every then existing Regulation by which any Court in Bengal was authorized to take cognizance of any suit whatever; it, in effect, takes away that authorization if the cause of action shall have arisen sixty years before the institution of the suit; it distinguishes between the effect of the twelve years' limitation and that of sixty, by precluding all inquiry into any original defect in the title under which the possession for the latter period commenced; it makes it, in effect, in cases in which the section applies, unavailing to show that the possession of the Appellant commenced under a grant made null and void by the Regulation of 1793.

The question then is, what is the cause of action in the present case, and when did it arise? In terms the suit is brought to recover rent for the last six or seven years, and the non-payment of that rent is, no doubt, in one sense, the cause of action.

The suit, indeed, may in some sense be likened to what is of daily occurrence, the action to recover the later items only of a long account, which have become due within six years, although the statute of limitations has barred the demand for the earlier items. The distinction, however, between such an action and the present suit, is obvious; the items of an account are independent of each other: each represents a distinct contract or a distinct debt. But the right to recover rent, for the last six or seven years, depends on a possession founded on a grant avoided by the Regulation, which possession has been one and entire in character through the whole sixty years.

It is the case of the Plaintiff in the Court below that by reason of the character of the grant and the operation of the Regulation, his ancestor might have determined the possession in the first year of its existence, or claimed rent at the end of that year. If, in spite of length of possession, an action for use and occupation could be maintained, so long as a Plaintiff could show a good title in himself and a bad one in the occupier, of what avail would any statute of limitation be? A man might be barred in an action directly brought to recover the possession, such as ejectment, and yet not be barred when he sued from year to year, in use and occupation, for a compensation for the fruits of the land; because in this the occupation would be referable to the sufferance and permission of the real owner, and so be a good consideration for an implied promise to pay what it was worth. But this clearly could not be; and so here, if no action could be maintained directly to recover the possession of the land, none can be brought to recover the rent, which is the compensation for the occupation—that occupation having been always of one and the same character; in fact, rent free.

Their Lordships being of this opinion will therefore humbly advise Her Majesty that this suit was barred by the sixty years' possession of the Appellant, and those under whom she claims, and therefore that

the original Judgment of the Sudder Ameen dismissing it ought to be affirmed, and the two later Judgments reversed, and the costs of all the proceedings below, with those of this Appeal, be paid by the Respondent.

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The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is essential for ensuring the integrity of the financial statements and for providing a clear audit trail.

In addition, it is noted that the records should be kept in a secure and accessible location. This ensures that the information is available when needed and is protected from unauthorized access or loss.

The document also highlights the need for regular reviews and updates of the records. This helps to identify any discrepancies or errors early on and allows for prompt correction.

Furthermore, it is stressed that the records should be maintained in accordance with the relevant legal and regulatory requirements. This ensures compliance and avoids any potential penalties or legal issues.

Finally, the document concludes by stating that the records are a valuable asset for the organization. They provide a clear and concise overview of the financial performance and are essential for making informed decisions.

It is recommended that the records be reviewed and updated on a regular basis. This will help to ensure that the information is always up-to-date and accurate.

The document is intended to provide a general overview of the requirements for maintaining financial records. It is not intended to constitute legal advice and should be read in conjunction with the relevant laws and regulations.