

Privy Council Appeal No. 27 of 1912.

**Nga Lu Gale, since deceased (now represented
by Maung Tin Gyi and others)** - - - *Appellants.*

v.

Nga Po Than - - - - - *Respondent.*

FROM

THE COURT OF THE JUDICIAL COMMISSIONER, UPPER BURMA.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 27TH APRIL 1914.

Present at the Hearing :

LORD MOULTON.

SIR JOHN EDGE.

LORD PARKER OF WADDINGTON.

MR. AMEER ALI.

[*Delivered by* LORD MOULTON.]

Their Lordships are of opinion that, upon the evidence before the Judge at the trial, more especially the evidence of the witnesses called for the plaintiff, it was satisfactorily established that the second transaction was a sale. They are also of opinion that, even if the Court were of opinion that there was no reliable evidence as to the nature of the second transaction, so that the rights of the parties must be settled by the first transaction, the result of the action would be the same, inasmuch as in that case the Statute of Limitations would apply, because the plaintiff's right to redeem would have accrued more than 30 years before the action, and nothing was proved which would take the case out of the Statute. Their Lordships therefore agree with the decision of the learned Judge of First Instance, and are of opinion that it ought to

have been affirmed by the Judicial Commissioner, and they will humbly advise His Majesty that the decision of the Judicial Commissioner should be set aside with costs, and the decision of the first Court restored. The respondent must pay the costs of this Appeal.



In the Privy Council.

NGA LU GALE, SINCE DECEASED (NOW
REPRESENTED BY MAUNG TIN GYI
AND OTHERS)

v.

NGA PO THAN.

DELIVERED BY LORD MOULTON.

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