

IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA.

C.A. 178/98 (F).

D.C. Trincomalee 261/93/RE

T.H.Bathdra

No.316, North Cost Road,

Trincomalee

T.H.Geetha Kanthi

No.316, North Cost Road,

Trincomalee

Defendant-Appellants

Packiyawathi wife of Sithampalampillai ,

No.22 , Fourth Crosst Street

Trincomalee

Plaintiff-Respondent.

Nawagamuwage Chitra Iranganie

Mallika of Rerukana temple, Rerukana,

Bandaragama and others

DEFENDANT-RESPONDENTS

BEFORE: A W A SALAM, J

Added Defendant-Appellant absent and unrepresented.

Plaintiff-Respondent is absent but represented by K.V.S.

Ganesharajah.

000153

ARGUED AND DECIDED ON : 13.06.2012.

A.W.A. Salam, J.

This appeal arises from the judgement dated 19.12.97 granting relief to the plaintiff as prayed for in the plaint. The background to the appeal is that the plaintiff filed action against the defendant for a declaration that he is the owner of the property described in the schedule to the plaint and for ejectment. On a chain of title set out in the plaint, he claimed ownership to the property in suit. The defendant contested the case mainly on the ground that the plaintiff's had no title to the property inasmuch as the revocation of the gift made to one Arumugam Tharumalingam is not valid in law.

At the conclusion of the trial, the learned district judge held that the deed in question is not a valid deed as the donee has failed to subscribe to the deed of gift indicating acceptance of the gift. On a perusal of the deed of gift in question, it is quite clear that the said Arumugam Tharumalingam has not accepted the gift and therefore it cannot constitute a valid gift. Hence, the title of the plaintiff is flawless and cannot be attacked by the contesting defendants.

In any event, the defendant has come into the land in question as a licensee and therefore in law she is estopped from disputing the title of the plaintiff. Taking into

000157

consideration the above matters, the learned district judge cannot be faulted for granting relief to the plaintiff. For the reasons enumerated this appeal should fail and therefore is dismissed without costs.

Judge of the Court of Appeal

Wc/