1963 *Present :* **Sansoni, J., and L. B. de Silva, J.**

A. D. NORIS APPUHAMY, Appellant, *and* NERIS SINGHO and another, Respondents

S. C. 619/60—D. C. Panadura, 7058

Minors—Transfer of immovable property by minor—Character of transferee's title.

A deed of transfer of immovable property executed by a minor is voidable and not void.

[1] *(1929) 31 N. L. R. 168.*

APPEAL from a judgment of the District Court, Panadura.

A. C. Gooneratne, with *N. S. A. Goonetilleke* and *Y. H. Gunaratne*, for the Plaintiff-Appellant.

No appearance for the Defendants-Respondents.

May 15, 1963. SANSONI, J.—

The plaintiff brought this action to be declared entitled to lot G of a land called Mahawatta described in the plaint. It has been proved that under a final decree in a partition action two persons, Karunaratne and Karunasena, became the owners of this land. They transferred their respective shares to the plaintiff by two deeds, in 1956 and 1958 respectively, when they were both minors. There are two defendants to the action, of whom the 2nd defendant is the father of the two minors while the 1st defendant is a tenant under him.

The learned District Judge has held that the two deeds executed by the minors in favour of the plaintiff are void in spite of clear decisions of this Court which have held that a deed executed by a minor is voidable and not void. The learned District Judge seems to have thought that there was some conflict between those decisions and another decision, which held that a guardian of a minor cannot alienate a minor's property without the sanction of the Court. There is no conflict at all, and the learned District Judge should have held that until the minors took steps and had the deeds executed by them set aside they were valid and conferred title on the plaintiff. The learned District Judge also seems to have thought that in the absence of express ratification by the minors after they had executed the deeds, no title passed to the plaintiff. That again is an unsound view.

It is difficult to understand what the learned District Judge meant when he answered the issue of prescription by holding that the 2nd defendant acquired title by prescription to the land. The 2nd defendant had admitted that he possessed this land on behalf of his minor sons. There was therefore no question of his acquiring title by prescription against those sons, and since ten years have not elapsed since the minors transferred their shares to the plaintiff, no question of prescription as against the plaintiff could arise.

We therefore set aside the judgment under appeal and give judgment for the plaintiff as prayed for with costs against both defendants, save that damages will be as agreed.

L. B. DE SILVA, J.—I agree.

Appeal allowed.