

Present : Garvin J.

1928.

MOHAMMED v. MOHAMAD *et al.*

211—A. C. R. Jaffna, 18,464.

*Sale—Grant of dominium subject to the life interest of vendor —Validity—  
English law.*

Under the law of Ceylon a conveyance by way of sale may be made subject to the life interest of the vendor.

**A** PPEAL from a judgment of the Commissioner of Requests, Jaffna.

*Balasingham*, for appellants.

*Arul Anandam*, for respondents.

February 6, 1928. GARVIN J.—

The only question which arises upon this appeal is whether a valid life interest in favour of the grantor had been reserved by deed No. 79 of March 28, 1925. The deed is, in form, a conveyance upon sale. It is stated in the premises, that in consideration of a sum of Rs. 500, the receipt of which is acknowledged by the vendor, he grants to the purchaser his undivided one-third share of a certain allotment of land and “all his estate, right, title, interest, claim, and demand whatsoever therein . . . to have and to hold the said premises hereby granted or intended so to be unto the purchaser and her aforewritten absolutely and for ever, but subject to the life interest of the vendor in the said premises.”

It was successfully contended in the Court below that the words “subject to the life interest of the vendor in the said premises” which appear in the *habendum* could not in law be held to abridge the grant made in the premises.

This contention is based upon the rule of English law that if in a deed a particular estate is expressed in the premises that estate may not be abridged in the *habendum*.

Assistance and guidance of great value is derivable from the English law relating to the interpretation of deeds, but the difficulty of applying those rules of interpretation to instruments in Ceylon lies in the fact that they relate to a system of conveyancing which has been evolved to give expression to conceptions peculiar to the English law of real property to which our own law of immovable property bears hardly any resemblance. It has become the practice of conveyancers in Ceylon to adopt the forms and the language of English conveyancing, and in consequence words or phrases often

**1928.**  
**GARVIN J.**  
**Mohammed**  
 v.  
**Mohamad**

appear in our deeds to which it would be wrong to give the interpretation which would be given them if they appeared in a deed drawn in England and dealing with real property situated thereon.

The general principle governing the interpretation of deeds is that the deed must be considered as a whole and effect given to the intention of the party if by law it may. Now the phrase "estate, right, title, interest, claims, and demand whatsoever" is generally employed by local notaries where the intention is to vest the dominion. It clearly was the intention of the grantor in this deed to vest the dominion in the purchaser but subject to his life interest. I am aware of nothing in our law which prohibits this document being given what appears to be its ordinary and natural constructions, or to prevent its being interpreted as the grant of the dominion subject to the life interest of the vendor. For these reasons, I would set aside the order under appeal and direct that judgment be entered for the plaintiff as pleaded for with costs in both Courts.

*Appeal allowed.*

