

1918.

Present : Bertram C.J. and Ennis J.

SALMAN v. OBIAS.

166—D. C. Galle, 14,519.

Registration—Deed executed or past consideration—Donation—Priority.

The term "valuable consideration" in section 17 of the Registration Ordinance, 1891, must be interpreted according to English law. A past consideration is no consideration at all under the English law, unless it was moved by a previous request, or unless it was rendered under such circumstances that a request is implied.

The registration of a deed of conveyance for which the consideration was a past consideration does not give it priority over an earlier unregistered deed.

THE facts appear from the judgment.

Bartholomeusz, for the appellant.

A. St. V. Jayawardene, for the respondents.

Cur. adv. vult.

July 29, 1918. BERTRAM C.J.—

The question here is a question as to the priority of two deeds, one a deed of gift, which was not registered, and the other which purports to be a deed of sale, but which was registered, although made subsequent to the deed of gift. The learned District Judge has expressed the opinion, with regard to the deed of sale, that it was in truth nothing but a donation, that as a deed of sale it was an empty transaction, and that the plaintiff must have known that the acceptance of the conveyance was merely a nominal cover for the gift. It is for the appellant to show that that view of the case is wrong, and I do not think that he can be said to have succeeded.

The question is really a question of the interpretation of certain words in the Land Registration Ordinance, 1891, namely, under section 17, the words "valuable consideration." These words must, I think, be interpreted according to English law. The consideration alleged in this case is that the appellant rendered certain services to his deceased grandmother, and expended certain sums for her benefit. It is stated by a witness to the deed that she, at the time of its execution, said, with regard to the appellant, that he was looking after her, that he had attended on her, spent for medical assistance, brought her there and gave her sea baths, and that he had better have a conveyance. These words denote as plainly as can be denoted that the consideration for the deed was a past consideration. The principles of English law are perfectly clear, and they are that a past consideration is no consideration at all, unless it was

moved by a previous request, or unless it was rendered under such circumstances that a request is implied. I think, therefore, that the judgment of the learned District Judge is right, and that the appeal should be dismissed, with costs.

ENNIS J.—I agree.

Appeal dismissed.

1916.

BERTRAM
C.J.

Salman
v. Obias