Supreme Court of India
Pedamallu Ramanamma vs Arisenkula Appalanarasamma on 26 February, 1974
Equivalent citations: AIR 1974 SC 2187, (1974) 4 SCC 842, 1974 (6) UJ 267 SC
Author: Alagiriswami
Bench: A Alagiriswami, K Mathew
JUDGMENT alagiriswami, J.

1. This is an unfortunate litigation between a mother and her only daughter. The mother filed a suit, O.S. No. 40 of 1956 against the daughter claiming a certain house as her own and that she let it out to her daughter on a monthly rent of Rs. 30 and sought eviction of the daughter from the house. The daughter contended that the sale deed by which the mother purchased the site on which the house stands from her (daughter's) husband was a nominal one and that the house was constructed by her and her husband from out of their funds and that she was not a tenant. The mother also filed another suit, O.S. No. 14 of 1957 for recovery of certain furniture and utensils and for the rent. The Trial Court found that the sale deed was not nominal, that the daughter as well as her husband contributed towards the construction of the house and that it was the joint property of all the three and that the tenancy pleaded by the mother was false. Both the suits were dismissed by the Trial Court. On appeal the High Court of Andhra Pradesh allowed the mother's appeal in O.S. No. 40 of 1956 only in respect of possession. The appeal against the judgment in O.S. No. 14 of 1957 was dismissed. The daughter has, therefore, filed this appeal against the judgment of the High Court on certificate granted by the High Court.

2. Exhibit A-2 is the sale deed dated 14th September, 1948 for a site of the extent of 10 cents purchased by the respondent (mother) from the appellant's husband for Rs. 200/. A sum of Rs. 100/- was paid before the Sub-Registrar, Rs. 100/- having been already paid. The appellant's husband had a land 20 cents in extent and it is out of these 20 cents that he sold 10 cents to his mother-in-law, the respondent. The payment of Rs. 100/- before him is endorsed by the Sub-Registrar on the sale deed itself. If it was merely a nominal sale deed there was no reason why only 10 cents out of 20 cents owned by the appellant's husband was sold under Ex. A 2. Both the Courts below have concurrently held that the sale deed is not nominal but is a genuine transaction and we see no reason to take a different view.

3. The next question is whether the house was constructed by the appellant and her with their moneys. The Trial Court held that the construction of the house was a joint enterprise by the appellant, the respondent and her second husband. The High Court took the view that the appellant might have advanced some money towards the construction of the house but that it did not confer any right on her in respect of the house. We shall now discuss the evidence on this point in brief.

4. The appellant's case was that by the time her husband executed a sale deed of the land on which the house stands, he had constructed it up to the roof level. Both the courts below refused to believe that case on the ground that if that was so it would have been mentioned in the sale deed itself P.W. 1, Paparao, the respondent's second husband seems to have been looking after the construction first through D.W. 3 and later through P.W. 7, after P.W. 1 and D.W. 3 fell out. The letters written by D.W. 3 to Paparao, wherein he promised to complete the work early and refers to the several steps

taken by him prove this. Later, the letters written by P.W. 7 to P.W. 1 are also to the same effect. These letters show that P.W. 1 was not only advancing money from time to time but was actually in charge of the construction These letters are spread over the period from January, 1949 to the end of 1952 A letter written by D.W. 3 to P.W. 1 (Ex. A-34) urges that the appellant should be allowed to stay in the house for some time. The tax receipts and demand notices are all in the name of P.W. 1 and later the respondent. More important than that are the two clinching circumstances. In Ex A 33 dated 3. 8.1954 the appellant wrote to P.W. 1 saying that she would quit the house if she was paid a sum of Rs. 2,000/- given by her after the death of her husband. Another circumstance is that Ex. B 6, a letter written by P.W. 1 to the appellant shows that the wanted to have 5 acres 24 cents of land settled in her favour, and actually 3 acres of land were settled on her subsequently. If there were any dispute about the house it would have been settled at that time. The appellant would not also have written Ex. A 33 to P.W. 1. All these make it abundantly clear that it was the respondent and her second husband that should have constructed the house and even if the appellant had advanced some money towards the construction she is not entitled to any share in the house.

5. The appeal is, therefore, dismissed. But considering the relationship of the parties and the unfortunate history of the case we direct both parties to bear their own costs.