



## **TAMIL NADU STATE JUDICIAL ACADEMY - REGIONAL CENTRE, MADURAI**

### **Webinar-XXVII on “Doctrine of Bona fide Purchaser under Transfer of Property Act”**

**26.03.2022**

### **Event Report**

The Programme commenced with the Welcome Address by Mr. S. Muthu Maharajan, Deputy Director of the Tamil Nadu State Judicial Academy, Regional Centre, Madurai. He extended his warm welcome to the Resource Person Mr. S. Mukunth, Advocate, Madras High Court and also to the Participants.

The Resource person Mr. S. Mukunth elaborately dealt with the topic **Doctrine of Bona fide Purchaser**. He explained the scope of the doctrine and the related provisions along with the relevant precedents. He said that, Bonafide Purchaser is a person who purchases a property for a valuable consideration in good faith and without notice of any defect in title.

The Resource Person has emphasized that, the general rule of law is undoubted, that no one can transfer a better title than he himself possesses; *Nemodat quod non habet*. However, the courts have time and again carved exceptions to this rule based on equity to protect the rights of the innocent subsequent buyers in situations of equitable estoppel and fraudulent conveyances.

There are some rights provided to the Bona fide Purchasers, who purchase the property under defective Title. These Rights are provided in certain provisions between Sec. 38 to Sec. 53 under the Transfer of property Act and Section 19(b) of Specific Relief Act.

The Resource Person has also reiterated that, Court cannot suspect the transaction unless it is proved to be so. The presumption shall always be in favour of bonafide of a transaction, and it requires strong contrary evidence to tilt the probability in favour of one who alleges fraud. Transfer made by an ostensible owner with the consent, express or implied of the real owner is protected provided that the transferee after taking reasonable care to ascertain that the transferor had the power to make transfer had acted in good faith. The Resource Person also explained about the difference between the ambit of Section 41 and 43 of the Transfer of Property Act.

Regarding the burden of proof, the onus is on the purchaser to prove the good faith who takes the place that he is an innocent purchaser. Moreover, the pleadings as to bona fide purchase is very much necessary. The bona fide purchaser must plead and lead evidence that he is a bona fide purchaser.

A very wide topic was exhaustively covered by the Resource Person within a limited span of time. The participants raised queries and they were answered by the Resource Person. At the end of the programme, the Deputy Director proposed Vote of Thanks.

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