IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL APPELLATE JURISDICTION)

Present:

Mr. Justice Md. Badruzzaman.
And
Ms. Justice Aynun Nahar Siddiqua

First Appeal No. 335 of 2020.

Md. Al-Amin alias Uzzal
...Appellant.

-Versus-

Shaheen Parvin and others
....Respondents.

Mr. Md. Wali-Ul Islam, Advocate
… For the appellant

Ms. Mukti Rani Kundu, Advocate
… For the respondents.

Heard on: 23.06.2026, 24.06.2026, 01.07.2026 and 09.07.2026.
Judgment on: 16.07.2026.

Md. Badruzzaman, J:

This appeal is directed against the judgment and decree dated 24-09-2019, the decree having been signed on 06-10-2019, passed by the learned Joint District Judge, 1st Court, Jhalokati, in Title Suit No. 29 of 2014, decreeing the suit.

The facts relevant for the disposal of this appeal are that respondent Nos. 1 and 2, as plaintiffs, instituted the above-mentioned suit seeking a declaration that the registered deed of declaration of Heba, being Deed No. 1469 dated 01.09.2009 in respect of the schedule suit land, is collusive, void, inoperative, and not binding upon the plaintiffs contending *inter alia* that the plaintiffs and defendant No. 3 are full sisters and the owners in possession of the suit land measuring 0.04375 acre. They opened Holding No. 544 in respect of the suit property and have been residing thereon for a long time. Neither the plaintiffs nor defendant No. 3 ever executed any registered deed of declaration of Heba in favour of defendant No. 1 in respect of the suit property. According to the plaintiffs, defendant No. 1, by misrepresentation and on the false pretext of obtaining a loan from the House Building Finance Corporation for the construction of a residential building on the suit property, procured their signatures on the impugned deed of declaration of Heba being No. 1469 dated 01.09.2009. The plaintiffs further contend that they never delivered possession of the suit property to defendant No. 1 and that the plaintiffs, along with defendant No. 3, have continued to reside on the suit property in the same manner as before. It is the further case of the plaintiffs that defendant No. 3, Muslima Khatun alias Mukta, is a mentally disabled person who has been suffering from such disability since birth. Moreover, defendant No. 3 receives a disability allowance from the Department of Social Welfare. According to the plaintiffs, she has never possessed the mental capacity to understand the nature and consequences of her acts or to distinguish between right and wrong. By reason of her mental incapacity, she was incompetent to execute any deed or to give valid consent. The plaintiffs first came to know about the existence of the impugned deed on 04.08.2014, when defendant No. 1 asserted his claim over the suit property on the strength of the said deed. Thereafter, they requested defendant No. 1 to execute and register a deed of cancellation in their favour, but he refused to do so. Having no other efficacious remedy, the plaintiffs were constrained to institute the present suit.

Defendant No. 1 contested the suit by filing a written statement denying all the material averments made in the plaint contending that the plaintiffs and defendant No. 3, of their own free will and upon receiving a consideration of Tk. 7,88,000/-, agreed to sell the suit property to him and accordingly went to the office of the Sub-Registrar for the registration of the proposed sale deed. According to defendant No. 1, upon the advice of the concerned *moharar*, instead of executing a sale deed, the plaintiffs and defendant No. 3 executed and registered impugned deed of declaration of Heba in order to avoid the payment of stamp duty. He further contended that the plaintiffs and defendant No. 3 duly received the consideration of Tk. 7,88,000/- from him. Defendant No. 1 further contends that, after the execution and registration of the deed of declaration of Heba, the plaintiffs and defendant No. 3 delivered possession of the suit property to him. According to him, he thereafter mutated the suit property in his name, has been regularly paying rent in respect thereof. Defendant No. 1 further stated that, when the suit property was enlisted as vested property, he instituted Vested Property Tribunal Case No. 32 of 2013 before the learned Senior Assistant Judge and Additional Vested Property Release Tribunal, Jhalokati, and, at his own expense, took necessary legal steps to protect the property. By Order No. 7 dated 29.01.2014, the Additional Vested Property Release Tribunal, upon consideration of the relevant records and documents, directed the release of the scheduled property from the vested property list. Following the said order, the relevant records were corrected in his name, and he has since remained in possession of the suit property. On these assertions, he prayed for dismissal of the suit with costs.

During the trial, both parties adduced oral and documentary evidence. Upon consideration of the evidence on record, the trial Court decreed the suit. Being aggrieved by and dissatisfied with the judgment and decree passed by the trial Court, defendant No. 1 has preferred the instant appeal.

Mr. Md. Wali-Ul Islam, the learned Advocate appearing on behalf of the appellant, submitted that the trial Court decreed the suit upon a misreading and non-consideration of the evidence on record and on a misconception of the applicable law.

The learned Advocate further submitted that DW-2, the mother of the plaintiffs and the defendants, categorically deposed that defendant No. 3, Muslima Khatun alias Mukta, was not mentally disordered. Referring to section 12 of the Contract Act, he contends that Muslima was of sound mind for the purpose of executing the impugned deed and that a person is not to be regarded as of unsound mind merely because of intermittent mental incapacity. According to him, since Muslima personally appeared before the Sub-Registrar and executed the impugned deed, it should be presumed that she was of sound mind and competent to understand the nature and effect of the transaction at the time of its execution.

The learned Advocate further submitted that the impugned deed is a duly registered document and that, in view of section 60 of the Registration Act, it is admissible in evidence and carries a statutory presumption that it was duly registered. Consequently, the burden lay upon the plaintiffs to prove that the impugned deed was forged, fraudulent, or otherwise invalid. According to him, the plaintiffs failed to discharge that burden by adducing cogent and convincing evidence.

The learned Advocate also submitted that, at the time of execution of the impugned deed, the plaintiffs and the defendants, being full siblings, were residing together as members of a joint family and maintaining a common mess. In such circumstances, according to him, the question of actual delivery of possession did not arise. He contends that the possession of the plaintiffs should, in law, be treated as the possession of defendant No. 1, amounting to constructive delivery of possession sufficient to complete a valid gift.

Finally, the learned Advocate submitted that the impugned deed of declaration of Heba was duly executed and validly registered in accordance with law and, therefore, there is no legal basis for declaring the deed void or for granting the relief of cancellation sought by the plaintiffs.

Mrs. Mukti Rani Kundu, the learned Advocate appearing on behalf of the plaintiff-respondents, submitted that the plaintiffs, by adducing cogent oral evidence and producing the relevant documentary evidence, have successfully established that the impugned deed was brought into existence by practicing fraud and was never acted upon. She further contended that the plaintiffs have proved that the essential ingredients of a valid Heba were absent and that the impugned deed is neither genuine nor legally enforceable.

The learned Advocate further submitted that the trial Court, upon a proper appreciation of the oral and documentary evidence on record and the applicable principles of law, rightly decreed the suit. She, therefore, contended that the impugned judgment and decree are well-founded and call for no interference by this Court in the exercise of its appellate jurisdiction. Accordingly, she prayed for dismissal of the appeal.

We have heard the learned Advocates, perused the pleadings of the parties, the oral and documentary evidence adduced by them, the impugned judgment and decree, and the other materials available on record.

Upon the pleadings of the parties, the trial Court framed the following issues:

1. Whether the suit is maintainable in its present form and manner?
2. Whether the suit is barred by limitation?
3. Whether the plaintiffs have right, title and possession in the schedule suit property ?
4. Whether the impugned deed, as described in Schedule 'Ka', is forged, collusive and fraudulent?
5. Whether the plaintiffs are entitled to the reliefs as prayed for?

The trial Court decided all the issues in favour of the plaintiffs and, accordingly, decreed the suit. At the time of hearing, the learned Advocate for the appellant did not raise any contention regarding the maintainability of the suit or the question of limitation.

Accordingly, we are of the view that the trial Court rightly held that the suit was maintainable in its present form and was not barred by limitation.

While deciding Issue Nos. 3 to 5, the trial Court, upon evaluation of the oral and documentary evidence adduced by both parties, came to the conclusion that the plaintiffs had right, title, and possession over the suit land, that the deed in question had been procured by fraud, and that the plaintiffs were entitled to the reliefs as prayed for.

We are now required to consider whether the findings and decision of the trial Court are founded upon a proper consideration and appreciation of the evidence and materials on record.

The plaintiff No.1 Shahin Parveen deposed as PW 1 on behalf of the plaintiffs who in her examination-in-chief, reiterated the plaintiffs' case as set out in the plaint. During cross-examination, she categorically denied the case of defendant No. 1 and remained consistent with the statements made in the plaint, without any material contradiction or deviation. In support of their case, produced the certified copy of the impugned deed of declaration of Heba, marked as Exhibit 1; S.A. Khatian No. 524, marked as Exhibit 2; B.S. Khatian No. 752, marked as Exhibit 3; and the rent receipts relating to the suit property, marked as Exhibits 4 and 4(Ka).

The plaintiffs also examined three witnesses in support of their case. Among them, P.W.2, Beauty Begum, stated in her examination-in-chief that she knew both the plaintiffs and the defendants and was well acquainted with the suit land. According to her, the plaintiffs' dwelling house stands on the suit land, where they reside. She further deposed that she had been residing in a room on the suit premises as a tenant under the plaintiffs for the last thirteen years. She also stated that Mukta, the plaintiffs' sister, is a person with a disability who lives with her mother. Mukta is mentally unsound, does not go outside the house, and receives a disability allowance. She further stated that the plaintiffs' brother, Ujjal, does not reside on the suit land but lives elsewhere in a rented house. During cross-examination, she remained consistent with her examination-in-chief and did not make any material deviation from her earlier testimony.

P.W.3, Nayan Chandra Das, stated in his examination-in-chief that he knew the plaintiffs, the defendants, and the suit land. He deposed that the suit land is situated to the south of his house and that the plaintiffs' dwelling house stands thereon. According to him, he had seen the plaintiffs residing on the suit land since their childhood, and they continue to reside there. He further stated that the plaintiffs' brother, Ujjal, does not reside on the suit land but lives elsewhere in a rented house. He also knew the plaintiffs' sister, Mukta, who, according to him, has been mentally disabled since birth and receives a disability allowance. During cross-examination, he remained consistent with his examination-in-chief and did not make any material deviation from his earlier testimony. Rather, he reiterated that Mukta is mentally disabled, remains confined to her home, lives with her mother, and that Ujjal resides elsewhere.

P.W.4, Rehana Parvin, is the sister of both the plaintiffs and the defendants. In her examination-in-chief, she stated that the plaintiffs and the defendants are her siblings. She deposed that her younger sister, Muslima Khatun alias Mukta, has been mentally disabled since birth, receives a Government disability allowance, and remains under the care and guardianship of their mother. She further stated that her brother, defendant No. 1, Al-Amin alias Ujjal, does not reside on the suit land but lives elsewhere in a rented house. According to her, neither she nor her sisters ever executed any deed of Heba in favour of defendant No. 1 in respect of any land, nor did they deliver possession of the suit land to him. She also stated that their mother and the plaintiffs are residing on the suit land. During cross-examination, she stated that the suit land originally belonged to her father. Although she is neither a plaintiff nor a defendant in the present suit, she has a share in her father's property. She categorically stated that she had never gifted her share of the land to her brother. She also denied the suggestion that she had transferred her share to defendant No. 1 by way of Heba or that he had paid any consideration in exchange for such transfer.

Defendant No.1 himself deposed as DW-1, in support of the case set out in the written statement. During cross-examination, he stated that defendant No. 3 is enlisted with the Department of Social Welfare as a person with a mental disability and receives a Government disability allowance. He further deposed that she is approximately 30 to 32 years of age, has never been married, suffers from physical disabilities, and is unable to move about normally. According to him, she became mentally disabled when he was about fifteen years old. He also admitted that his father's dwelling house stands on the suit property and that the plaintiffs are residing there with their family. He denied the suggestion that, on the pretext of obtaining a loan, he had procured the signatures of the executants on the impugned deed. He further denied the suggestions that the plaintiffs had not delivered possession of the suit property to him, that he had not paid Tk. 7,88,000/- to the plaintiffs as consideration, and that the impugned deed was forged, fabricated, and brought into existence by practicing fraud. He, however, admitted that no guardian had been appointed by any competent Court on behalf of Muslima Khatun alias Mukta for the execution of the impugned deed. Defendant No. 1 also produced the certified copy of the impugned deed of Heba, which was marked as Exhibit Ka; an unregistered deed of sale dated 1.9.2009, which was marked as Exhibit Kha; Mutation Khatian No. 1472, which was marked as Exhibit Ga; one rent receipt, which was marked as Exhibit Gha; an affidavit executed by Laila Khatun, which was marked as Exhibit Uma; and certified copies of order dated 29.1.2014 passed by the Arpita Sampatti Pratyarpan Tribunal and the plaint of the case, which were marked as Exhibits Uma and Uma (1).

The defendant also examined two witnesses in support of his case. Among them, DW-2, Laila Begum, is the mother of both the plaintiffs and the defendants. In her examination-in-chief, she stated that defendant No. 1, Al-Amin alias Ujjal, is her son. She further deposed that she has eight sons and two daughters, all of whom are her biological children, and that her late husband had only one wife, namely herself. According to her, the plaintiffs executed and registered the impugned deed of Heba in favour of defendant No. 1. She also stated that defendant No. 1 looks after and maintains both her and her youngest daughter, who is mentally disabled. During cross-examination, she stated that defendant No. 3, Muslima Khatun alias Mukta, was about 26 to 27 years of age and is enlisted with the

Department of Social Welfare as a person with a mental disability. She further stated that Muslima had affixed her thumb impression on the application submitted for obtaining her disability allowance. She admitted that the plaintiffs have continued to reside in their dwelling house in the same manner as before and are still residing there. She also stated that her youngest son lives separately in a rented house and bears her expenses. Finally, she admitted that she was not an attesting witness to the impugned deed of Heba.

D.W-3, Sahana Parvin, is also the sister of the plaintiffs and defendant No. 1. In her examination-in-chief, she stated that the plaintiffs and her other sisters had executed a deed of Heba in favour of their brother, Al-Amin alias Ujjal. She further deposed that her sister, Muslima Khatun alias Mukta, is mentally disabled and that her three sisters voluntarily went to the Sub-Registrar's Office, where they executed and registered the impugned deed.During cross-examination, she stated that, prior to the registration of the disputed deed of Heba, the plaintiffs had been residing in their father's dwelling house and that they continue to reside there in the same manner even after the execution and registration of the impugned deed.

C.W.1, Gopal Chandra Das, an Assistant Record Keeper of the Jhalokati Sadar Sub-Registrar's Office, was examined as a Court Witness at the instance of the defendant. He produced the relevant volume containing the impugned deed. In his examination-in-chief, he stated that he had brought the Register, in which the impugned deed was recorded at pages 222 to 229. He further deposed that the donee, named in the deed, is Al-Amin alias Ujjal and that the executants are Shahin Parveen and two others. During cross-examination, he stated that he had produced the original Register No. I. He further deposed that executant No. 3 had personally executed the deed and that no thumb impression appears in the relevant register in respect of the impugned deed.

Upon a careful consideration of the entire evidence adduced by the parties, it appears that all the PWs consistently deposed that defendant No. 3, Muslima Khatun alias Mukta, was a person with an intellectual disability (বুদ্ধি প্রতিবন্ধী) and had been receiving a Government disability allowance from the Department of Social Welfare. Significantly, defendant No. 1 himself, as well as D.W.2, Laila Begum (their mother), and D.W.3, Sahana Parvin (their sister), unequivocally admitted in their evidence that defendant No. 3, one of the executants of the impugned deed, was a person with a mental disability. These admissions lend substantial support to the plaintiffs' case that defendant No. 3 lacked the requisite mental capacity at the time of the execution of the impugned deed.

The question that now arises for determination is whether a person suffering from an intellectual disability (বুদ্ধি প্রতিবন্ধী) is legally competent to execute and register a deed of declaration of Heba and, if not, whether such a deed is valid in the eye of law or void.

Section 7 of the Transfer of Property Act provides that every person competent to contract is competent to transfer property in the manner and to the extent permitted by law. The expression "competent to contract" has been defined in Section 11 of the Contract Act, 1872, which provides that every person is competent to contract who has attained the age of majority according to the law to which he is subject, is of sound mind, and is not disqualified from contracting by any law to which he is subject. Section 12 of the Contract Act further provides that a person is said to be of sound mind for the purpose of making a contract if, at the time of making it, he is capable of understanding the contract and of forming a rational judgment as to its effect upon his interests. It also recognizes that a person who is usually of unsound mind but occasionally of sound mind may validly enter into a contract during a lucid interval, whereas a person who is usually of sound mind but occasionally of unsound mind cannot validly contract during a period of unsoundness of mind.

Neither the Transfer of Property Act nor the Contract Act contains any specific provision as to whether a person with an intellectual disability (বুদ্ধি প্রতিবন্ধী) is competent to contract or to transfer property. The competency of such a person must, therefore, be determined in the light of the general principles embodied in Sections 11 and 12 of the Contract Act, namely, whether, at the time of entering into the transaction, the person was capable of understanding its nature and of forming a rational judgment as to its effect upon his or her interests.

A person with an intellectual disability (বুদ্ধি প্রতিবন্ধী) is one who has significant limitations in intellectual functioning, such as learning, reasoning, problem-solving, and comprehension, as well as in adaptive functioning, which encompasses the practical, social, and conceptual skills necessary for everyday life. An intellectual disability may affect a person's ability to learn new information and skills, understand complex ideas or instructions, make independent decisions, solve problems, communicate effectively, and manage daily activities, such as personal care, financial affairs, education, or employment, without varying degrees of support.

The mere fact that a person has an intellectual disability (বুদ্ধি প্রতিবন্ধী) does not, by itself, render a deed of transfer void or voidable. The governing legal principle is the person's mental capacity at the time of the transaction, and not the label or diagnosis of intellectual disability. A person with a mild or moderate intellectual disability who is capable of understanding the nature of the transaction, the property being transferred, the identity of the transferee, and the legal consequences of the transfer may validly execute a deed of gift or any other instrument of transfer. Conversely, where the disability is of such a severe nature that the executant is incapable of understanding the nature and legal effect of the transaction or of forming a rational judgment as to its consequences, the deed must be held to be invalid on the ground that there was no real or informed consent and that the executant lacked the legal capacity to enter into the transaction.

The burden of proving such incapacity ordinarily rests upon the party who challenges the validity of the deed executed by such person. Mere production of a disability certificate or evidence of low intelligence is generally not sufficient. The court should examine all the surrounding circumstances, including: medical evidence, testimony of attesting witnesses, evidence of the scribe or deed writer, the conduct of the donor before and after execution, and whether the donor appeared to understand the transaction. Neither the Transfer of Property Act, 1882 nor the Registration Act, 1908 provides that every deed executed by a person with an intellectual disability (বুদ্ধি প্রতিবন্ধী) is void. The decisive question is whether the donor had the mental capacity to understand the nature and effect of the gift at the time of execution. Therefore, a deed of gift executed by a person with an intellectual disability can be legally valid if the donor possessed sufficient understanding of the transaction when it was executed.

In the instant case, all the P.Ws. consistently deposed that defendant No. 3 was a person with an intellectual disability and lacked the mental capacity to understand the nature and consequences of her acts or to distinguish between right and wrong. Significantly, all the D.Ws., including D.W.1, also admitted that, at the relevant time, defendant No. 3 was a person with an intellectual disability. It further appears from the testimony of D.W.2, the mother of the plaintiffs and defendant No. 3, that both she and defendant No. 3 had been under the care and maintenance of defendant No. 1. It is also admitted that, although defendant No. 3 was 30–32 years of age, she remained unmarried due to her intellectual disability.

Being the person entrusted with the care and custody of defendant No. 3, defendant No. 1 was in a position to produce her before the trial Court to demonstrate that, at the time of the execution of the impugned deed of gift, she possessed the requisite mental capacity to understand the nature and legal consequences of the transaction. However, defendant No. 1 failed to produce defendant No. 3 as a witness or to adduce any other cogent evidence to rebut the consistent testimony that she was a person with an intellectual disability. In the facts and circumstances of the case, such omission justifies drawing an adverse inference against defendant No. 1 under section 114(g) of the Evidence Act, 1872, that, had such evidence been produced, it would not have supported his case regarding the competency of defendant No. 3 to execute the impugned deed.

Accordingly, the oral evidence adduced by both parties unequivocally establishes that defendant No. 3 was incapable of understanding the nature and legal consequences of the impugned transaction or of making an informed and independent decision in relation thereto.

In view of the foregoing discussion, we are unable to accept the contention of the learned Advocate for defendant-appellant that defendant No. 3 was of sound mind within the meaning of Section 12 of the Contract Act, 1872, at the time of the execution of the deed of gift. The evidence on record clearly establishes that defendant No. 3 was incapable of understanding the nature and legal effect of the transaction or of forming a rational judgment as to its consequences. Consequently, defendant No. 3 lacked the legal capacity to execute the deed of gift, and defendant No. 1 cannot derive any benefit from Section 12 of the Contract Act. The impugned deed of gift, therefore, cannot be sustained as a valid transfer in law. Accordingly, this Court is of the considered view that the impugned deed is invalid and of no legal effect insofar as it purports to have been executed by defendant No. 3, as she lacked the requisite mental capacity to execute a valid instrument. Consequently, the impugned deed is void and inoperative to the extent of the interest purportedly conveyed by defendant No. 3.

The next question that calls for determination is whether, the impugned deed was validly executed by the plaintiffs or by virtue of the impugned deed, the suit property was validly transferred to defendant No. 1 and whether defendant No. 1 acquired possession thereof.

Under section 62(2) of the Registration Act, a registered document is admissible in evidence for the purpose of proving that it has been duly registered in the manner prescribed by the Act. However, it is a settled principle of law that mere registration of a document does not dispense with the requirement of proving its due execution in accordance with law.

It is the specific case of the plaintiffs was that the impugned deed was neither read over nor explained to them at the time of its execution and that, on the false pretext of obtaining a loan from the HBFC, defendant No. 1, in collusion with the deed writer and the attesting witnesses, procured the execution of the impugned deed by practicing fraud and misrepresentation. In the circumstances, the burden lied upon defendant No. 1 to prove the due execution of the impugned deed.

Significantly, defendant No. 1 failed to examine either the deed writer or any of the attesting witnesses to establish that the contents of the impugned deed had been read over and explained to the plaintiffs before they executed it. In the absence of such evidence, and having regard to the specific plea of fraud and misrepresentation raised by the plaintiffs, the due execution of the impugned deed has not been proved in accordance with law.

Since defendant No. 1 failed to adduce sufficient and reliable evidence to prove the due execution of the impugned deed, he cannot derive any benefit from the provisions of section 62(2) of the Registration Act. Consequently, the mere fact of registration does not validate the impugned deed or establish its due execution.

It is the case of the plaintiffs that they and defendant No. 3 have been residing on the suit property since the lifetime of their predecessor-in-interest and continued to remain in possession thereof both before and after the purported execution and registration of the deed of declaration of Heba. Significantly, all the D.Ws., including D.W.1, categorically admitted that the plaintiffs and defendant No. 3 are still residing on the suit property. Thus, the evidence on record unmistakably establishes that physical possession of the suit property was never delivered to defendant No. 1 pursuant to the alleged deed of declaration of Heba. Under Muslim Law, delivery of possession is an indispensable ingredient for the validity and completion of a gift (Heba). Since the alleged donee was never put in possession of the suit property, this Court is of the view that the alleged deed of declaration of Heba was never acted upon and remained incomplete and ineffective for want of delivery of possession.

The learned Advocate for the appellant contended that, at the time of execution of the impugned deed, the plaintiffs and the defendants, being full siblings, were residing together as members of a joint family and maintaining a common mess; that in such circumstances, the question of actual delivery of possession did not arise and that the possession of the plaintiffs should, in law, be treated as the possession of defendant No. 1, amounting to constructive delivery of possession sufficient to complete a valid gift.

The above contention of the learned Advocate cannot improve the case of defendant No. 1 because in his written statement, defendant No. 1 neither pleaded that he and the plaintiffs were residing together as members of a joint family or maintaining a common mess, nor did he set up any such case. On the contrary, his specific case was that, at the time of the execution and registration of the impugned deed of *Heba*, the plaintiffs delivered possession of the suit property to him. In view of such specific pleading, the submission advanced by the learned Advocate is wholly inconsistent with the defendant's own case and, therefore, has no basis to stand.

It appears that on the basis of the impugned deed defendant No. 1 got his name mutated in the relevant revenue records, paid rent in respect of the suit property, and instituted a proceeding before the Arpita Sampatti Pratyarpan Tribunal seeking release of the property from the *Kha* list of vested properties. However, those subsequent acts do not establish his title to and possession in the suit property. A perusal of the order dated 29.01.2014 passed by the Tribunal (exhibit- Uma) reveals that it did not adjudicate or determine the question of title of defendant No. 1. Rather, the Tribunal merely disposed of the case on the ground that the property included in the *Kha* list had already been released by Gazette Notification dated 10.10.2013. Therefore, it cannot be contended that the title of defendant No. 1 was declared or established by the Arpita Sampatti Pratyarpan Tribunal in the said proceeding.

Defendant No. 1 also set up an alternative case that, in reality, the plaintiffs and defendant No. 3 had sold the suit property to him for a consideration of Tk. 7,88,000/-, but, with a view to avoiding payment of stamp duty, they executed and registered the impugned deed of declaration of Heba instead of a sale deed. However, defendant No. 1 utterly failed to prove, by cogent, reliable and convincing evidence, either that the plaintiffs and defendant No. 3 had sold the suit property to him or that the alleged consideration of Tk. 7,88,000/- was ever paid to them. Although defendant No. 1 produced an unregistered deed of sale (Exhibit-Ka-1) in support of his contention, he failed to establish, by any credible evidence, that the plaintiffs and defendant No. 3 had executed the said deed or that the alleged consideration mentioned therein had in fact been paid to them. Consequently, the alternative case advanced by defendant No. 1 remains wholly unsubstantiated.

Moreover, it is a settled principle of law that a sale of tangible immovable property of the value of Tk. 100/- or more can be effected only by a registered instrument, as mandated by section 54 of the Transfer of Property Act, 1882, read with section 17 of the Registration Act, 1908. Furthermore, section 49 of the Registration Act expressly provides that an unregistered instrument required by law to be registered neither affects the immovable property comprised therein nor confers any right, title, or interest upon the purported transferee.

In the instant case, since the alleged deed of sale was never registered as required by law, it remained wholly ineffective to convey any right, title, or interest in the suit property in favour of defendant No. 1. The said unregistered deed is nothing more than a paper transaction and is incapable of transferring ownership or creating any lawful interest in the suit property. Consequently, defendant No. 1 cannot claim any right, title, or interest in the suit property on the strength of the said unregistered deed.

Upon a careful perusal of the impugned judgment of the trial Court, it appears that the learned trial Judge, upon a proper appreciation of the oral and documentary evidence on record, rightly decreed the suit. We find no illegality, infirmity, or perversity in the findings and decision of the trial Court warranting interference by this Court.

In view of the foregoing discussions and findings, we find no merit in this appeal.

Accordingly, the appeal is dismissed, without any order as to costs.

Let the Lower Court Records (L.C.R.), together with a copy of this judgment; be sent down to the court below forthwith.

(Justice Md. Badruzzaman)

I agree.

(Justice Aynun Nahar Siddiqua)