[2026] UKPC 13
Privy Council Appeal No 0102 of 2024

JUDGMENT

Jim Peter Grant and two others (Respondents) *v* Glenda Jackman and three others (Appellants) (Trinidad and Tobago)

From the Court of Appeal of the Republic of Trinidad and Tobago

before

Lord Briggs
Lord Hamblen
Lord Leggatt
Lady Rose
Lord Doherty

JUDGMENT GIVEN ON
13 April 2026

Heard on 10 March 2026

Appellant
Christophe Rodriguez
Kimaada Ottley
(Instructed by Allum Chambers (Trinidad))

Respondent
Kiel Taklalsingh
Stefan Ramkissoon
Caitlyn Greene
Sarah Sinanan
(Instructed by JCS Caribbean Law (formerly Johnson, Camacho & Singh (Trinidad)))

LORD BRIGGS:

1. This appeal from the Court of Appeal of Trinidad and Tobago raises issues as to the construction and application to particular facts of section 16 of the Registration of Deeds Act of Trinidad and Tobago ("the Deeds Act") upon which the courts below have sharply differed. Section 16 lays down a scheme for the compulsory registration of deeds affecting land in Trinidad and Tobago, with a system of priority between such deeds based upon their time of registration, and additional protection from the effect of unregistered deeds upon purchasers for value and mortgagees without notice.

2. The detailed underlying facts are in certain respects obscure, but all that matters for the purposes of this appeal is the chronological order in which the main events occurred. Prior to 1979 Choy Min Sun ("Mr Choy") was the legal owner of residential property known as No 14 (Lot 18) Dahlia Walk, Dorrington Gardens, St Lucien Rd, Diego Martin ("the Property"). By a deed of conveyance made on 22 November 1979 ("the 1979 Conveyance") Mr Choy sold and transferred the Property to Lerrie Bovell, the third respondent ("Mr Bovell"), for an unspecified sum. The 1979 Conveyance was held in escrow from then until 2007, from when it took effect, but it was not registered until December 2014.

3. Meanwhile Mr Choy made a will dated 17 August 2011. He appointed Alloy Sun (the third appellant) ("Mr Sun") as his executor and devised the Property to his sisters, Choy Chan Sin and Glenda Jackman and his nephew's son David Steele, who are the other appellants ("the Beneficiaries") in equal shares. Mr Choy died on 18 February 2013 and Mr Sun obtained probate of the will on 28 February 2014. Thereafter Mr Sun made a deed of assent to the vesting of the Property in the Beneficiaries on 15 April 2014 ("the Assent"), and it was registered on 18 June 2014. Mr Bovell registered the 1979 Conveyance on 23 December 2014.

4. Mr Bovell contracted to sell the Property to Jim Peter Grant and Anna Marie James-Grant, the first and second respondents ("the Grants"), on 22 January 2015 for TT$800,000. After investigation of his title by the Grants, Mr Bovell conveyed the Property to them on 10 June 2015 ("the 2015 Conveyance"), in exchange for the purchase price, most of which was raised by the Grants by a mortgage of the Property. Following completion, the Grants spent substantial sums on the renovation of the Property before moving in in December 2015. They registered the 2015 Conveyance on 13 August 2015. For reasons which remain obscure, the Assent was not discovered in the course of the search of the Deeds Registry made on the Grants' behalf in March 2015, although it had by then been registered for almost nine months.

5. The present dispute arose when Mr Sun discovered the renovations being carried out to the Property by the Grants' contractors in late June 2015. After a letter from

attorneys for the appellants in early August warning them of Mr Choy's death and of the Assent, the Grants made a further search of the Deeds Registry which disclosed the Assent. Their first reaction was to sue Mr Bovell for the return of the purchase price and compensation for their expenditure on the renovations, on the basis (inter alia) that he had not conveyed good and marketable title to the Property to them. There was also a claim against Mr Bovell in fraud, with which the Board need not be concerned.

6. Mr Bovell defended the Grants' claim on the basis that he had been the owner of the Property when he conveyed it to them, pursuant to the 1979 Conveyance. By amendment he joined in the respondents (Mr Sun and the Beneficiaries) as additional defendants to the Counterclaim. They in turn counterclaimed for a declaration that the Beneficiaries were the owners of the Property by virtue of the Assent. The pleadings disclosed a dispute as to who, as between Mr Choy and Mr Bovell, had been in possession of the Property during the long period between 1979 and Mr Choy's death in 2013, but this was never resolved and (as is common ground) is irrelevant to the issues for decision on this appeal. At the beginning of the trial the Grants shifted the main thrust of their claim from the relief originally sought against Mr Bovell, in preference for an assertion that he, and in due course they, were the true owners of the Property, rather than the Beneficiaries.

7. In his judgment (following trial) dated 16 January 2019 Ramcharan J held that the 1979 Conveyance had validly transferred the Property to Mr Bovell, but that the Assent took priority over the 1979 Conveyance because it was the first of the two deeds to be registered, by the operation of section 16(1) of the Deeds Act. In the result he awarded the Grants substantially the monetary relief they had originally sought against Mr Bovell, but declared that the Beneficiaries were the owners of the Property, and made an order for possession in their favour.

8. The Grants appealed, successfully, to the Court of Appeal (Moosai, Lucky and Dean-Armorer JJA). In their unanimous judgment, given ex tempore by Moosai JA on 24 May 2024, they held that the Assent could not have "trumped" the valid 1979 Conveyance because the Assent was not a deed for valuable consideration. Implicit in their reasoning is the proposition that the scheme for priority between competing registrable deeds does not assist a volunteer, but only purchasers (and mortgagees and anyone else, such as a lessee, who takes an interest in land for some kind of consideration, usually payment). In particular, it does not assist those who, as beneficiaries under a will, receive title merely by a deed of assent, to gain a priority against an earlier purchaser from the testator which the testator could not himself have enjoyed, by registering the assent earlier than the purchaser's conveyance.

9. By this appeal to the Board, the Beneficiaries seek to reinstate the order and reasoning of the trial judge, basing themselves squarely on the language of section 16(1) of the Act, as both it and its statutory ancestor the Irish Registration of Deeds Act 1707

have, they submit, been consistently interpreted in decisions going back over two centuries. Before examining the authorities it is necessary to look squarely at the statutory language of section 16.

10. The Deeds Act, as its heading asserts, is:

> "An Act relating to the execution, registration and admission in evidence of Deeds, and to provide for the protection of purchasers and mortgagees."

The Deeds Act applies to all deeds (widely defined in section 2(1)) and its cardinal operative principle, applicable to all deeds, is that a deed takes effect upon execution: see section 3, which provides that:

> "Every Deed executed in Trinidad and Tobago or elsewhere, in the presence of and attested by one witness at least not being a party thereto, shall be held and taken in law to be a specialty, and shall otherwise as a Deed be valid and effectual for all purposes; and nothing in this section shall give an unregistered Deed any effect or operation which by law is dependent on registration."

11. The general scheme of the Deeds Act is to make the registration of deeds optional, as appears from section 4:

> "Any Deed, although it is not required by law to be registered, may at the option of any party to the Deed be registered under this Act."

But the registration of deeds affecting land in Trinidad and Tobago is made compulsory by section 16, which is headed "Priority of Deeds and Protection of Purchasers and Mortgagees". It provides as follows:

> "(1) Every Deed whereby any lands in Trinidad and Tobago may be in any way affected at law or in equity shall be registered under this Act, and every such Deed duly registered shall be good and effectual both at law and in equity, according to the priority of time of registering such Deed, according to the right, title and interest of the person conveying such lands against every other Deed, conveyance or disposition of the

> same lands or any part thereof, and against all creditors by judgment of the same person so conveying such land.
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> (2) Every such Deed that is not duly registered shall be adjudged fraudulent and void as to the lands affected by such Deed against any subsequent purchaser for value or mortgagee without notice of the same lands or any part thereof, whose conveyance shall be first registered."

12. It is worth setting out, before examining the authorities, what is common ground and what is in dispute about the meaning and effect of section 16 of the Deeds Act. It is common ground, first, that both the 1979 Conveyance and the Assent were deeds for which section 16 made registration compulsory. Secondly, both deeds (and in particular the 1979 Conveyance) took effect upon execution (subject to the effect of the escrow) rather than upon registration, subject to the specific and limited consequences of non-registration (in section 16(2)) and late registration (with the loss of priority set out in section 16(1)). Thirdly, Mr Bovell was, at least as against Mr Choy, the legal and beneficial owner of the Property immediately before Mr Choy died in 2013, even though he had never registered the 1979 Conveyance. If Mr Choy had remained in possession of the property, Mr Bovell was (subject to any question of limitation or adverse possession) entitled to an order for possession against him or against any other trespasser at any time, not merely in contract, but as the legal owner of the land. Fourthly, it is agreed that, as the trial judge held, section 16(2) has no direct application to the present case since the Beneficiaries are volunteers, not purchasers or mortgagees.

13. Turning to the matters in issue, the central case of the respondents, both in writing and orally, was that, having divested himself of ownership of the Property by the 1979 Conveyance, there was nothing by way of title that Mr Choy could thereafter pass to anyone else, or which his executor Mr Sun could transfer to the Beneficiaries by way of the Assent. Counsel submitted that the words in section 16(1) "according to the right, title and interest of the person conveying such lands" meant the right (if any) remaining after the earlier (but later registered) deed. There being no such right, title or interest available to Mr Choy or his executor, the Assent could provide no meaningful priority to the Beneficiaries, even though its registration preceded that of the 1979 Conveyance.

14. This argument relies on the principle nemo dat quod non habet (no one can give what he does not have). Its starting point is that, since the beneficial interest in a property passes to a transferee on delivery of a conveyance to them rather than upon registration, there was nothing for Mr Choy's executor to transfer to the Beneficiaries. It is an argument that might amount to one way of reading the quoted words in section 16(1). But the questions are first: whether it can withstand the weight of earlier authority, and secondly: whether it makes sense of section 16 read as a whole. To those questions counsel for the appellants submitted negative answers.

15. It appears to the Board that this was not the analysis which persuaded the Court of Appeal. Rather, as summarised above, their view appears to have been simply that it was no part of the purpose of the Act that the system of priority based upon date of registration of a deed should enable a mere volunteer (ie someone who has been given the land) to gain priority under section 16 over a prior purchaser of the same land, by registering the voluntary transfer (or here the Assent) ahead of the registration of the earlier conveyance for value. Although not perhaps at the forefront of the respondents' submissions, the Board will nonetheless address it in detail, not least because there is plenty of material both in the Act itself and in the relevant authorities to confirm that it was purchasers (including those like mortgagees taking an interest in land for valuable consideration) rather than mere volunteers that the Act was primarily intended to protect. But the same questions arise: namely, whether this argument can withstand the weight of authority, and whether it can be fitted within a coherent interpretation of section 16, read as a whole.

16. There are, it appears, only two authorities directed to the interpretation of section 16 of the Deeds Act. They are both relatively recent decisions of the Board, in the second of which the first was not cited. But the Board's attention was mainly directed by the appellants to a volume of much earlier authority about section 4 of the Irish Registration of Deeds Act 1707 ("the Irish Act") which, it is said, was the ancestor of section 16(1) of the Deeds Act. There was a sharp dispute between counsel as to whether reference to this body of authority is legitimate at all.

17. There is no escaping the strong similarity in language between the relevant provisions of the Irish Act and section 16(1) of the Deeds Act. Section 3 of the Irish Act provides that a "memorial"—now referred to as a register—of all deeds and conveyances which are made and executed in writing for or concerning, and whereby any lands may be in any ways affected, "may, at the election of the party or parties concerned, be registered in such manner as is herein after directed".

18. Section 4 of the Irish Act then provides:

> "And be it further enacted by the authority aforesaid, That every such deed or conveyance, a memorial whereof shall be duly registered according to the rules and directions in this act prescribed, shall, from and after the said twenty fifth day of March in the year of our Lord one thousand seven hundred and eight, be deemed and taken as good and effectual both in law and equity, according to the priority of time of registering such memorial for and concerning the honors, manors, lands, tenements, and hereditaments in such a deed or conveyance mentioned or contained, according to the right, title, and interest of the person or persons so conveying such honors, manors, lands, tenements, and hereditaments, against all and

> every other deed, conveyance, or disposition of the honors, manors, lands, tenements or hereditaments, or any part thereof comprized or contained in any such memorial as aforesaid."

19. Section 5 of the Irish Act then further enacts that "every deed or conveyance not registered … shall be deemed and adjudged as fraudulent and void, not only against such a deed or conveyance registered as aforesaid, but likewise against all and every creditor and creditors by judgment".

20. Counsel for the respondents did not, and could not, challenge the similarity of language. But he submitted that section 16 must be construed as a whole, including section 16(2), to establish its overall meaning, even in a case where (as is agreed) only section 16(1) is engaged. The Irish Act contains no exact precedent for section 16(2) because, although its section 5 includes much of the language of what became section 16(2), it contains no reference to protection for purchasers or mortgagees. By contrast the English Registration of Deeds Act (also called the Middlesex Registry Act) 1708 does just that. The preamble to the English Act records the problem that had arisen from frauds leading to those who "through many Years of Industry in their Trades and Employments, and by great Frugality" have been able to buy land but "have been undone" in those purchases by "prior and secret Conveyances" such that "not only themselves, but their whole Families thereby utterly ruined". To remedy this it provided as follows (breaking up the text into paragraphs for ease of exposition):

> "… That a Memorial of all Deeds and Conveyances, which … shall be made and executed, … of or concerning, and whereby any … Lands, … may be any Way affected in Law or Equity, may be registered in such Manner as is herein after directed …
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> and that every such Deed or Conveyance, that shall at any Time after the said twenty-ninth Day of September be made and executed shall be adjudged fraudulent and void against any subsequent Purchaser or Mortgagee for valuable Consideration, unless such Memorial thereof be registered as by this Act is directed, before the registering of the Memorial of the Deed or Conveyance under which such subsequent Purchaser or Mortgagee shall claim;
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> and that every such Devise by Will shall be adjudged fraudulent and void against any subsequent Purchaser or Mortgagee for valuable Consideration, unless a Memorial of such Will be registered at such Times and in such Manner as is herein after directed."

21. The Board would accept that section 16 of the Deeds Act is to be construed as a whole, that it may fairly be said to be something of a hybrid, incorporating parts of each of the Irish and English Acts, and that section 16(2) is clearly imported from the English Act. But section 16(1) is plainly derived from section 4 of the Irish Act, and where there is long-settled authority as to aspects of its meaning (which it may be supposed that the framers of the Deeds Act had well in mind) the Board should be very slow to depart from it. The Board reminds itself of these words from Blackburn CJ in *Drew v Lord Norbury* [1846] Cases in Equity 171 at p 187:

> "It is a settled opinion among the Profession, and has been often announced from the Bench. Whatever opinion might have been formed before it became so, it must now be considered as settled law. Very many titles depend on it, and to depart from it would be exceedingly dangerous."

To the same effect is this passage from the judgment of Lord Truro in *Mill v Hill* (1851–52) 3 HLC 828, at pp 854–855:

> "If the rules of law applicable to the settlement of property, which have been solemnly decided and acted upon during a period of fifty years, which have governed professional men in that country in advising and in arranging their clients' interests in respect of property, are to be called in question, and if at the end of that time that which might have been at one time doubtful, but has long since been settled, is to be re-opened and reconsidered, and an alteration takes place, I confess it appears to me that the Courts would become rather a snare than a protection."

22. Lord Blackburn and Lord Truro were both there referring to what had become, even by 1846, the authoritative interpretation of the Irish Act by Lord Redesdale in *Bushell v Bushell* [1803] Cases in Chancery 90, especially in the respects in which it differed from the English Act. It had come to be thought that the English Act (which also created a memorial on which the parties could choose to register their deeds but used rather different wording from section 4 of the Irish Act) had the effect that registration of a deed merely constituted notice to any subsequent purchaser of the land or an interest in it, following which the usual principles of equity (such as the protection of a bona fide purchaser for value without notice and the maxim that equity does not assist a volunteer) would then be applied so as to determine priority. But Lord Redesdale held that section 4 of the Irish Act mechanically determined priority by reference to date of registration, whatever may be the nature of the instrument, regardless of the principles of equity, but subject only to an implied fraud exception, where a later purchaser, knowing that an

earlier deed was unregistered, got his deed registered first so as to defeat the title of his predecessor. At p 98, after reciting section 4 of the Irish Act, he said:

> "Now, this clause is not in the English acts … This difference in these acts seems to me to have been what has produced the difference in the decisions upon them; and that difference does not consist in the registry here being notice, but in the priority which the statute here gives to the prior registered deed. That part of the act which makes a deed not registered fraudulent and void against a registered deed, has received the same construction in both countries: the question whether a registered deed was to have priority of another registered deed, according to the priority of registry, and how far this priority was to extend, has received a different determination in England and in Ireland, and that difference is founded on the words of the Irish act."

23. At p 101 he continued:

> "But I think the words of the Irish act explain the difference that has arisen: the third clause provides that a deed which in any way affects lands shall be taken as good in law and equity according to the priority of time of registering. Thus it is expressly enacted that whatever be the nature of the instrument priority in the time of registering shall give it priority of operation both at law and equity. This controls courts of equity: they cannot say that the prior legal deed shall draw to it the subsequent unregistered instrument, to the prejudice of the intermediate registered instrument. But then the act does not warrant any fraud; it is made in favour of bona fide purchasers; and therefore if a person purchases the estate of another with notice that he has made a lease which is not registered, he acts fraudulently in enabling himself to set aside a lease which the maker of it could not have set aside. That was the case of *Lord Forbes v Deniston*, and the case on the Yorkshire registry before Lord King. Therefore I do not think it necessary for the sake of supporting anything which I have heard of as having been held in this country, to consider the registry as notice. I think it is not notice, but it has the effect of giving priority except in case of fraud (as, where the party has had notice aliunde) and that is a priority which a court of equity or of law cannot take away."

24. This formidable analysis by Lord Redesdale set the agenda for the judicial interpretation of the Irish Act which followed. *Warburton v Loveland* (1831–32) 2 Dow & Clark 480 was a decision of the House of Lords on appeal from the Irish Exchequer Chamber about a contest between the beneficiary under an unregistered marriage settlement and the lessee of the husband under a later registered lease. The outcome turned on section 5 of the Irish Act, but there is a compelling refutation of the crucial underpinning of the respondents' nemo dat argument in the present appeal, namely the meaning of "according to the right, title and interest of the person conveying such lands" in section 16(1). Giving the unanimous opinion of the judges, which the House of Lords adopted, Tindal LCJ said this at p 499:

> "And it is further urged, that as the fourth section, in declaring the effect and operation of registered conveyances, inter se, gives efficacy to the first registered deed in preference to the second, not absolutely, but only 'according to the right, title and interest of the person conveying,' a similar restriction must be understood to be imported into the fifth section also, and that the enactment which avoids altogether the prior unregistered as against the subsequent deed which is put upon the register, must be understood with this tacit restriction, 'according to the right, title and interest of the grantor in the second deed.' The meaning of those restrictive words in the fourth section appears to be 'according to what would have been the right, title and interest of the person making the second conveyance had there been no deed but what appears upon the register.' For unless this be the meaning of those words in the fourth section, that clause of the statute affords no protection at all. The clause, therefore, so understood, enacts in effect, that every man who first registers his conveyance, where there is no other objection to the grantor's right to convey except a prior conveyance made by himself and unregistered, shall be preferred to the man who registers at a subsequent time the conveyance so made to him. This construction, on the one hand, excludes from the protection of the fourth section the grantee who has registered a conveyance made to him by a perfect stranger to the estate; and on the other hand includes within its protection, as between two grantees, that one who first registers his conveyance, made by the owner of the estates."

25. In other words, if a grantor A purports to sell the land first to B and then to C, and B does not register his deed and C does register his deed, then C in fact gains no protection by his registration if the inclusion of that phrase in the provision means that A, having previously conveyed his whole interest to B, had nothing left to convey to C so that C's deed as registered was empty of legal content. There is also in the *Warburton* case a persuasive explanation of the overall purpose of the scheme for compulsory registration

of deeds affecting land, and the attendant priority rule, which transcends the protection of purchasers. At p 496 Lord Tindal said:

> "The language of the Act throughout, and more particularly in the fifth section, seems to establish this to have been its leading object, that as far as deeds were concerned the register should give complete information, and that any necessity of looking further for deeds than into the register itself should be superseded; and it is manifest that no construction of the Act is so well calculated to carry into effect this its avowed object as that which forces all transfers and dispositions of every kind, and by whomsoever made, to be put upon the face of the register, so as to be open to the inspection of all parties who may at any time claim an interest therein."

26. Reference has already been made to *Drew v Lord Norbury* for the dictum about the dangers of interfering with settled law about conveyancing matters. The case is perhaps even more important as an example of the protection which (in sharp contrast with the English Act) section 4 of the Irish Act affords to a volunteer, as opposed to a purchaser for value. Lord St Leonards said, at p 188:

> "The Acts in the two countries differ. It is impossible not to be struck with the circumstance, that though both Acts passed in the same year, the English Act went no further than to protect a purchaser, and gave voluntary deeds no greater validity, by reason of their registration, than they had before. The Irish Act expressly extended to all deeds, whether for value or not, and gives them, as between each other, according to the priority of their registration, priority in their operation. Therefore, if two voluntary conveyances are made, and the second is registered before the first, it would have priority over the first, under the 6th of Anne. Therefore, the intention of the two Acts was certainly not altogether the same; and after the most scrupulous examination of them, and comparing one with the other, I find no words in the English Act equivalent to those in the 4th section of the Irish Act. Therefore it was on strong grounds that that eminent Judge of equity—and a more eminent Judge never presided in a Court of Equity—Lord Redesdale, formed the conclusion to which he came. Independently of that, there is considerable ground for the conclusion at which he arrived in the words of the Act itself."

27. Although it may be said that Lord St Leonards' example, of priority as between two voluntary conveyances, does not deal expressly with a contest, as in the present case, between an earlier (but later registered) conveyance for value and a later (but earlier registered) voluntary conveyance, the logic of his explanation leads inexorably to the same conclusion. The later donee who registers first has priority over the earlier purchaser, in the absence of fraud. This is because section 4 of the Irish Act and section 16(1) of the Deeds Act each provide for all deeds affecting land to be registered and apply the same priority of registration rule to all of them.

28. The Deeds Act was first framed in 1884, by which time the analysis of the Irish Act by Lord Redesdale in *Bushell*, confirmed in *Warburton* and *Drew*, had for a long time been settled law. It took a further long time before the construction of section 16 became the subject of argument before the Board.

29. In *Ramdeo Mahabir v Payne* (1979) 33 WIR 268 the contest was between the beneficiary under a voluntary settlement and a subsequent purchaser from the settlor. The order of events was (i) the voluntary settlement executed by deed, (ii) the completion of the sale to the purchaser, (iii) the registration of the settlement and (iv) the registration of the conveyance on sale. As the trial judge had held, the simple application of the priority rule in section 16(1) would have given priority to the settlement, as the first to be registered. But section 16(2) was held to render the settlement void against the purchaser (and therefore not qualifying as a valid deed under section 16(1) as against the purchaser) because, at the time of the completion of the sale, the settlement had not been registered. The case is of importance because it graphically illustrates how section 16(2) is quite separate from, and confers a different form of protection to, section 16(1). It shows beyond question that the two subsections do not always work together. Lord Russell of Killowen, giving the opinion of the Board, said this at p 271:

> "Counsel for the appellant contended that the system of registration of deeds such as these involved the simple proposition, which seems to have been accepted by Malone J, that priority of registration was the answer to the case. Consider, it was said, section 16(1): there are two deeds purporting to convey the same land (lot 71): the settlement was duly registered and therefore is declared to be good and effectual against the second deed 'according to the priority of time of registering'.
>
> Their Lordships, however, consider that the solution to this case lies in section 16(2). The respondent was a subsequent purchaser of lot 71 for value without notice of the settlement. His right was a right to have the settlement adjudged void as against him, it not having been registered at the time when he

> became such a purchaser: that right crystallised then and could not be taken from him by a subsequent registration of the settlement. The phrase 'whose conveyance shall be first registered' cannot mean whose conveyance is registered before the settlement is registered. Such a construction would deprive the subsection of all content, since in that case the registration priority under subsection (1) would suffice for the purchaser under the second deed. It (the phrase quoted) is in their Lordships' opinion but a condition precedent to an attack on the first deed as being void. It may be also that, if there were two subsequent purchasers for value without notice, the phrase stresses that it would be the first of those two to register who could assert avoidance of the original deed."

30. A similar issue as to the relationship between section 16(1) and section 16(2) arose in *Deslauriers v Guardian Asset Management Ltd* [2017] UKPC 34; [2018] 2 All ER (Comm) 596. The contest was between the beneficiaries of an alleged but unregistered deed of settlement and a later judgment creditor of the settlor which had registered its judgment. It was argued that, because judgment creditors were not among those protected by section 16(2), the beneficiaries of the settlement took free of the claim of the judgment creditor. The point was something of a postscript because in the event the settlement was declared void for other reasons. But the Board held (obiter) that the answer to the priority issue, had it arisen, would have been under section 16(1) not section 16(2) even though the settlement had never been registered. They said this, at paras 54–56:

> "In the Board's view, the priority as between the equitable interests purportedly created by the Deed of Settlement and those arising from GAM's registered judgment is determined by section 16(1), not section 16(2). Priority in accordance with the time of registration governs equitable interests arising from registrable Deeds and the interests of judgment creditors, where the judgment debtor is the same person as the grantor (including for that purpose settlor) under the relevant Deed. The operative words of section 16(1) may be extracted as follows:
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> 'and every such Deed duly registered shall be good and effectual … in equity, according to the priority of time of registering such Deed, … against all creditors by judgment of the same person so conveying such land.'
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> The question arose during argument before the Board as to what, if that is the correct interpretation of section 16(1), is added by section 16(2)? Mr Kealey (counsel for the respondent)

> submitted that, merely to provide for priority as between equitable interests according to the time of registration would not protect a sub-purchaser, from a purchaser enjoying priority by reason of prior registration, as against an equitable interest thereafter registered, but before the completion or registration of the sub-purchase Deed. The effect of section 16(2) was to render the unregistered interest void for all purposes, so that its later registration could not take effect in priority to the interest of a sub-purchaser from the original purchaser whose conveyance had been first registered. No such protection was needed for judgment creditors, who could exercise their rights as prior charge free from the subsequently registered interest.
>
> The Board considers that this analysis is probably correct, but that it is unnecessary to decide the point. Even if section 16(2) amounted to little more than belt and braces, the Board is satisfied that 16(1) is sufficient by its clear terms to regulate any competition for priority as between the equitable interests arising under a Deed and those arising under a registered judgment (which are the same as those of an equitable chargee), in accordance with their respective dates of registration."

31. It is regrettable that the *Ramdeo* case was not cited to the Board in *Deslauriers*, because it provides a better illustration of the separate purpose of section 16(2) from section 16(1). But both cases reinforce the perception, dating all the way back to the *Bushell* case in 1803, that what is now section 16(1) has a life of its own, not affected by the workings of section 16(2) and its limited class of those protected (which excludes both volunteers and judgment creditors). It also shows that the words in section 16(1) "against every other Deed, conveyance or disposition of the same lands" extend the priority protection against unregistered deeds as well as deeds registered later.

32. Returning to address the specific questions before the Board, the nemo dat objection which forms the main argument of the respondents cannot survive the reasoned rejection of the same argument in relation to section 4 of the Irish Act by the House of Lords in *Warburton.* Although strictly an obiter dictum, the reasons given in the passage quoted above are, subject to one possible exception, compelling. If delivery of a conveyance deprives the transferor of title to make a valid disposition of the relevant land (or interest in land) on a later occasion, the result would be that priority would always depend upon time of delivery, not time of registration. That would be flatly contrary to, and completely destructive of, the scheme of priority prescribed for registrable deeds by section 16(1).

33. A possible exception to that reasoning, not mentioned in *Warburton*, may be a case where there are successive charges. In principle, the owner of land may grant any number of successive charges over the same land, whether legal or equitable. Generally speaking, at common law they take their priority by reference to the time of execution. The grant of the first charge does not deprive the owner of title to grant a second charge. The nemo dat principle therefore has no application. Thus it might be argued that the phrase in section 16(1) "according to the right, title and interest of the person conveying such lands" could be interpreted, even on the respondent's nemo dat argument, as leaving some room for priority based on time of registration, but only in relation to interests in land such as charges, where the grant of the first does not deprive the owner of title to grant the second.

34. But this exception is in the Board's view much too narrow to save the nemo dat argument from the destructive effect so well described in *Warburton*. Furthermore the line of cases in which the Irish Act and then the Deeds Act have been assumed to create a general system of priority by reference to time of registration, applicable to all registrable deeds affecting land, shows that the narrow scope for that priority inherent in the above exception is contrary to the very well settled learning about this type of deeds registration which has prevailed for over 200 years.

35. The remaining argument is that section 16 and its combination of section 4 of the Irish Act (in section 16(1)) and part of the English Act (in section 16(2)) were intended to be, and should therefore be interpreted as being, limited to providing protection to purchasers (including those like mortgagees taking interests in land for valuable consideration) so as to exclude volunteers, or at least those taking by inheritance, from the benefit of early registration. The brevity of the Court of Appeal's reasoning accepting the substance of this argument suggests that they thought it obviously right, without the need for elaboration.

36. There is much that can be said for this argument. As will appear from the foregoing citations of authority on the Irish Act, there is a general judicial recognition that at least the main purpose of the Irish Act was to protect purchasers. Even Lord Redesdale, the fons et origo of the settled understanding of the Irish Act, said that it "is made in favour of bona fide purchasers". Furthermore it may well be said of the Deeds Act that a search for the overall purpose of section 16, read as a whole, points to protection of purchasers (including mortgagees) because of the importation into section 16(2) of the phrase "against any subsequent purchaser for value or mortgagee" from the English Act, whereas it was absent from the Irish Act.

37. The narrower version of this argument, that section 16 cannot in any event have been intended to enable those who take land (by a vesting assent) by inheritance to receive more than their testator enjoyed at the time of his death, may be said to be even more persuasive, at least at first blush. As counsel for the respondents put it in his oral opening: it cannot have been the intention of Parliament that section 16(1) should operate so as to

enable a testator to pass title to property which he did not own when he died. That submission accords with a general common sense understanding of what the law about inheritance is, and is not, designed to achieve. Furthermore, none of the authorities deployed before the Board includes a case where this result was held actually to have occurred.

38. The Board considers nonetheless that both the wider and narrower versions of this argument are wrong. Taking the wider argument first, the language of section 16(1) simply does not accommodate any distinction between purchasers and volunteers as to those affected by the scheme of priority based on first registration of a registrable deed affecting land. There is no peg in the language used in section 16(1) on which to hang such a distinction (see *A v C* [2026] UKPC 11, at paras 71–72).

39. Section 16(1) proceeds in three stages. First it imposes a requirement for compulsory registration of every deed whereby any land in Trinidad and Tobago may be "in any way affected at law or in equity". It is common ground that this includes a voluntary deed (ie where the grantee is a volunteer), and there are numerous authorities which decide, or at least assume, that this is so. Secondly it provides that "every such Deed duly registered" shall be effective (again at law and in equity) according to the priority of its time of registration. In other words, it applies the priority scheme based on time of registration to every type of deed which is compulsorily registrable. Therefore a voluntary deed enjoys the benefit of that scheme of priority. Thirdly it provides that the benefit of that priority is effective against "every other Deed, conveyance or disposition of the same lands or any part thereof" (and against all judgment creditors of the same person conveying the land). As already noted, "every other Deed" includes both a deed which is registered later, and an unregistered deed.

40. That language cannot in the Board's view accommodate a distinction which would, at one and the same time, leave a voluntary deed compulsorily registrable but deprive it of the benefit of priority. This was the conclusion also reached by Lord St Leonards in the passage cited at para 26 above in *Drew v Lord Norbury*, and the Board can see no answer to it. Nor can the language accommodate a restriction that the priority of a voluntary deed should only prevail against another voluntary deed, and therefore not against a purchaser under another deed.

41. The reference to purchaser in section 16(2) does not provide any basis for impliedly restricting the wide ambit of the priority scheme in section 16(1). It applies to all deeds affecting land. For the reasons already given, section 16(2) is a separate and distinct form of protection to that provided by section 16(1). Of course, where it applies, section 16(2) may produce a different result from the scheme of priority in section 16(1), as the *Ramdeo* case illustrates. There the deed which was first in registration did not achieve priority because it was void against the grantee under the second deed, since it had not been registered at the time of the execution of the second deed, and the grantee

was a purchaser without notice. It so happened that the first deed was voluntary, but this could not have disentitled it to priority if it had been registered by the time of the execution of the second deed.

42. Nor is there any sound basis for stretching the language of section 16(1) by reference to a supposed "purchasers only" purpose of the legislation. When Lord Redesdale spoke of the Irish Act being in favour of bona fide purchasers he was not drawing a distinction between purchasers and volunteers but between purchasers acting bona fide and purchasers participating in a fraud because they knew of the earlier conveyance although it had not been registered. His phrase was part of his reasoning for discerning an implied fraud exception, not for confining the protection afforded by the Irish Act to purchasers.

43. Of course it may be said, at a high level of generality, that the protection of purchasers (rather than the mere recipients of gifts) was an important purpose of the registration scheme. That is clear from the preamble to the English Act and that is what part of the heading to section 16 states in terms, in the phrase "Priority of deeds and protection of purchasers and mortgagees", although the latter part is on its face directed more to section 16(2) than section 16(1) which is about priority. But the scheme is in no sense confined to protecting the immediate purchaser under a particular registered deed. Rather the more fundamental objective of the scheme is to provide to all those contemplating the acquisition of land or an interest in land a ready means of investigating title to it, by a search which is designed to reveal every prior deed affecting that land in the past: see the citation from the speech of Lord Tindal in *Warburton* at para 25 above.

44. It is just as important that voluntary deeds (including assents) should be registered as other deeds. Both the Irish Act and the English Act expressly refer to devises of land by wills. Vesting assents are an important part of the chain of title in any scheme of conveyancing which does not (like a Torrens system) confer title by registration itself. It was plainly an important aspect of the purpose of the deeds registration scheme in both the Irish Act and the Deeds Act that voluntary deeds including vesting assents should be registrable. It cannot be said to have been the accidental result of excessively torrential drafting.

45. Turning finally to the narrower argument which would exclude those taking by inheritance from benefiting from the protection afforded by the priority scheme in section 16(1), it is as alien to the statutory language as is the argument which would exclude all volunteers from protection. There is again no peg in the language for this suggested exception and, as explained above, every good reason why vesting assents (by which such inheritances are made good) should be included in the registration scheme.

46. In the final analysis the sense of discomfort at someone taking by inheritance land which the testator had already sold is no more nor less than a particular example of the nemo dat argument which, in its simplest form, asks why should someone who has already sold land to A be able thereafter to achieve a second sale of the same land to B? The only difference is that in the nemo dat example B will generally have paid good money for it, whereas the person who receives the land as an inheritance is just a volunteer.

47. Nor should it be thought that the facts of this case, while generating considerable sympathy for the Grants, reveal any injustice in the priority scheme laid down by section 16(1) of the Act which calls to be relieved by a new and strained construction of its terms. The Assent had in fact been registered many months before the Grants commissioned an investigation of Mr Bovell's title, by which it should have been revealed. There has been no finding as to why it was missed. If there was some administrative failure in the Deeds Registry (as to which counsel could only speculate) the remedy for that is to improve its efficiency, not to re-read the Act as if it means something radically different. It is a fair inference that, if their search had revealed the Assent, they would not have completed their purchase of the Property. Their first reaction to discovering the Assent was to sue Mr Bovell for the return of the purchase price, and the trial judge granted that relief. As for Mr Bovell himself, he was the victim of his extraordinary delay in registering the 1979 Conveyance, even after the condition for its escrow expired in 2007.

48. For those reasons, this appeal must be allowed, and (subject to any points of detail, which should be addressed in writing) the order of Ramcharan J reinstated.