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Revenue Court had no power to entertain or decide the question of title, and we therein follow the judgment of our brother Aikman in S. A. No. 361 of 1900, so far unreported. In that case he held, as we do, that it was not within the power of the revenue authority to decide this question of title, and therefore nothing said or done by the Revenue Court would operate as *res judicata* so as to bar the plaintiff from his remedy by suit. Under these circumstances we must set aside the decree of the Court below, allow the appeal, and remand the case to that Court under section 562 of the Code of Civil Procedure to be dealt with according to law. The appellant is entitled to his costs of this appeal. Other costs will follow the event.

Appeal decreed and cause remanded.

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February 18.

Before Sir John Stanley, Knight, Chief Justice and Mr. Justice Burkitt.
KIRPA RAM AND OTHERS (PLAINTIFFS) v. SAMI-UD-DIN AHMAD KHAN
AND OTHERS (DEFENDANTS).*

Bond—Compound interest—Unconscionable bargain.

One Sami-ud-din Ahmad Khan, on the 10th of November 1892, borrowed from Kirpa Ram and Ghasi Ram Rs. 900, for which he gave a bond bearing compound interest at Rs. 2 per cent. per mensem, with monthly rests, and mortgaging a 10-biswa share in a village and half a pacca house in Moradabad. The obligor was at the time of the execution of this bond, a young man of 18 years of age, a spendthrift and a drunkard. On the 13th of June 1900, the mortgagees sued on the bond to recover Rs. 5,380-9-0 from the surplus proceeds of the sale of the mortgaged share which had taken place in execution of a decree on a prior mortgage. The Court of first instance gave the plaintiff a decree, but allowed only simple interest at the rate stipulated for in the bond. On appeal the High Court sustained the lower Court's order as to the interest holding that the bargain was an unconscionable bargain against which that Court had properly relieved the defendant mortgagor. *Beynon v. Cook* (1), *Kamini Sundari Chaudhrani v. Kali Prosswano Ghose* (2), *Lalli v. Ram Prasad* (3) and *Madho Singh v. Kali Ram* (4) referred to.

THIS was a suit to recover money on a mortgage bond executed on the 10th of November 1892. The bond was for a sum of Rs. 900 payable on demand, with compound interest at the rate of 2 per cent. per mensem with monthly rests. The suit was

* First Appeal No. 50 of 1901 from a decree of Babu Achal Behari, Subordinate Judge of Moradabad, dated the 30th November 1900.

(1) (1875) 10 Ch. App., 391. (3) (1886) I. L. R., 9 All., 74.
(2) (1885) I. L. R., 12 Calc., 225. (4) (1887) I. L. R., 9 All., 228.

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filed on the 13th of June 1900, and the amount then claimed was Rs. 5,380-9-8. The defence set up by the principal defendant, Sami-ud-din Ahmad Khan, was that there was no consideration for the bond, and that it was procured from him when he was in a state of intoxication and by fraud and undue influence. The Court of first instance (Additional Subordinate Judge of Moradabad) found against the principal defendant on these pleas, but that Court was of opinion that the bond itself amounted to an unconscionable bargain, against which a Court of Equity would give relief. The Court accordingly, while decreeing the plaintiffs' claim generally, allowed only simple interest at the rate of 2 per cent. per mensem instead of the compound interest stipulated for in the bond. Against this disallowance of interest the plaintiffs appealed to the High Court.

Munshi *Gokul Prasad*, for the appellants.

Babu *Jogindro Nath Chaudhri*, for the respondents.

STANLEY, C. J., and BURKITT, J.—The only ground for this appeal is that the lower Court was not justified in reducing the amount of interest fixed by the mortgage bond given to them by the first defendant, Sami-ud-din Ahmad Khan. The suit was brought to recover the amount of that bond, which was executed on the 10th of November 1892, to secure a principal sum of Rs. 900, and compound interest at the rate of 2 per cent. per mensem and monthly rests. The defence set up by the principal defendant was, that there was no consideration for the bond, and that it was procured from him when he was in a state of intoxication and by fraud and undue influence. The learned Subordinate Judge found against the principal defendant on these pleas, but he was of opinion that the bond itself amounted to an unconscionable bargain against which a Court of Equity would give relief. It appears from the evidence that Sami-ud-din Ahmad Khan was, at the time the bond was executed, a youth of about 18 years of age, and also a spendthrift and drunkard. The instrument itself bears upon its face the impress of unconscionable dealing, the rate of interest charged being so exorbitant. This alone was sufficient in our opinion to justify the refusal of the learned Subordinate Judge

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to give the exorbitant rate of interest stipulated for. If it were necessary to refer to any authorities upon the subject, we would point to a decision of the Master of the Rolls in *Beynon v. Cook* (1), which was affirmed by the Court of appeal. In that case the borrower was a reversioner, and the plaintiff was a money-lender, who took as security from the borrower a promissory note for a hundred pounds, for which he was charged £15 discount for six months, and also a mortgage of his reversionary interest with interest at the rate of 5 per cent. per month. The principle laid down by the Master of the Rolls in that case was adopted and quoted by their Lordships of the Privy Council in the case of *Kumini Sundari Chaudh-rani v. Kali Prossunno Ghose* (2). Their Lordships quoted the following portion of the judgment of the Master of the Rolls:—"The point to be considered is, was that a hard bargain? The doctrine has nothing to do with fraud. It has been laid down in case after case that the Court, wherever there is a dealing of this kind, looks at the reasonableness of the bargain, and, if it is what is called a hard bargain, sets it aside. It was obviously a very hard bargain indeed, and one which cannot be treated as being within the rule of reasonableness which has been laid down by so many Judges." These words seem to us to be applicable to the present case, and as an authority to have fully justified the decision at which the learned Subordinate Judge arrived. This is the view which has been accepted in this Court in two cases, namely, the case of *Lalli v. Ram Prasad* and the case of *Madho Singh v. Kashi Ram*, reported in the Indian Law Reports, 9 Allahabad, at pages 74 and 228 respectively. The bargain in this case was unquestionably an unconscionable one, and one in respect of which Courts of Equity ought to give relief. We accordingly dismiss the appeal with costs.

Appeal dismissed.

(1) (1875) 10 Ch. App., 391.

(2) (1885) I. L. R., 12 Calc., 225.