

## ORIGINAL CIVIL.

*Before Mr. Justice Rutledge.*IN THE MATTER OF BULABAT SAGERMULL,  
AN INSOLVENT.\*1924  

---

Mar. 12*Presidency Towns Insolvency Act (III of 1909), section 17, proviso and paragraph 23, Second Schedule—Secured creditor's claim to interest at contract rate.**Held*, that a secured creditor of an insolvent is entitled to interest on his debt at the contract rate up to the time of realisation.

This matter came before the Court in the above insolvency proceedings on a reference from the Deputy Registrar who had doubts in his mind as to whether a secured creditor was entitled to be paid interest on his debt at the contract rate or at such rate as might be fixed having regard to the provisions of paragraph 23 of the Second Schedule of the Presidency Towns Insolvency Act.

*S. N. Sen*—for the S.R.M.M.A. Chettyar Firm,  
secured debtor.

*Halker*—for the Insolvent.

**RUTLEDGE, J.**—The question comes before the Court for a ruling as to whether a secured creditor can claim interest at contract rate beyond the date of the adjudication of the insolvent. The Official Assignee confirms my recollection that the practice hitherto has always been that interest at contract rate was allowed up to the time of realization. The Deputy Registrar seems to have had some doubt as to whether paragraph 23 of the Second Schedule to the Presidency Towns Insolvency Act would apply to the case of a secured creditor.

In my view, that paragraph applies to unsecured debts. The wording of the proviso to section 17 seems

\* Insolvency Case No. 260 of 1923.

1924

IN THE  
MATTER OF  
BULABAT  
SAGERMULL,  
AN  
INSOLVENT.  
RUTLEDGE, J.

to me clear. The section vests, on adjudication, all the property of the insolvent in the Official Assignee ; but the proviso goes on to state : " that this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed. "

The words " in the same manner " and " to deal with it " preserves his power to charge interest at the rate agreed upon up to the time his debt is paid ; and, in the paragraphs of the Second Schedule dealing with the taking of accounts of mortgaged property and the sale thereof—especially paragraph 20—there is no suggestion that the interest there mentioned should be different from that of the contract rate.

I am, therefore, of opinion that a secured creditor can claim interest at contract rate up to the time of realization, and I direct that the property in question be sold in accordance with Form 114.