

**APPELLATE CIVIL.**

*Before Sir Shadi Lal Chief Justice and Mr. Justice  
Coldstream.*

MANGHI AND OTHERS (PLAINTIFFS), Appellants  
*versus*  
DIAL CHAND AND ANOTHER (DEFENDANTS),  
Respondents.

1926

May 28.

Civil Appeal No. 2353 of 1922.

*Mortgage—Interest—whether a charge on the property  
—in the absence of any contract to the contrary.*

*Held*, that, where the mortgage deed contains a stipulation for payment of interest, the mortgagee, in the absence of any contract to the contrary, is entitled to treat the interest due under the mortgage as a charge on the property.

*Ganga Ram v. Natha Singh* (1), followed.

*Held also*, that the fact that the mortgagors made themselves personally liable for the payment of the interest was not incompatible with the fact that the interest formed also a charge on the property.

*Second appeal from the decree of H. F. Forbes, Esquire, District Judge, Dera Ghazi Khan, dated the 13th June 1922, modifying that of Mir Muhammad Bakir, Subordinate Judge, Dera Ghazi Khan, dated the 28th July 1921, and decreeing the plaintiffs' suit.*

GHULAM MOHY-UD-DIN, for Appellants.

DEVI DAYAL, for Respondents.

The judgment of the Court was delivered by—

SIR SHADI LAL C. J.—This appeal arises out of a suit for redemption of a mortgage, and the only question which requires determination is whether the mortgagors are entitled to redeem the property on payment of only the principal mortgage money and are not liable, to pay at the same time, the interest due thereon.

1926

MANGHI

v.

DIAL CHAND.

Now, the mortgage deed contains a stipulation for the payment of interest; and their Lordships of the Privy Council have laid down the principle that the mortgagee, in the absence of any contract to the contrary, is entitled to treat interest due under a mortgage as a charge on the property. *Ganga Ram v. Natha Singh* (1). The learned counsel for the mortgagors, however, contends that this general rule has been displaced by the covenants in the deed. Now, it is true that the mortgagors made themselves personally liable for the payment of the interest, but personal liability is in no way incompatible with the fact that the interest formed also a charge on the property.

Indeed, the covenant as to redemption distinctly provides that the property shall be redeemable on payment of *zur mutaliba*; and the learned counsel for the appellants admits that the expression *zur mutaliba* means money "demandable" or "claimable", and that ordinarily a mortgagee would be entitled to claim not only the principal mortgage money but also interest thereon. It is, however, urged that the context indicates that *zur mutaliba* was intended to include only the principal mortgage money and such agricultural expenses as may have been incurred by the mortgagee. This construction has not been accepted by the learned District Judge, and after perusing the terms of the deed we are of opinion that the parties used the expression in its ordinary meaning, and that there is no ground for putting a forced construction upon it.

We concur, accordingly, in the conclusion of the learned District Judge, and dismiss the appeal with costs.

A. N. C.

*Appeal dismissed.*