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Prabhu Nath to execute the same, but the Court below very properly declined to go into these matters and no argument was addressed to us on this part of the case. We think that the decision of the Court below was perfectly correct. We accordingly dismiss this appeal with costs.

N. F. E.

Appeal dismissed.

APPELLATE CIVIL.

Before Sir Shadi Lal, Chief Justice, and Mr. Justice Agha Haidar.

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 Nov. 20.

MALLA (DEFENDANT), Appellant

versus

MUHAMMAD SHARIF AND OTHERS (PLAINTIFFS),
 Respondents.

Civil Appeal No. 990 of 1922.

Specific Performance—Contract to purchase immoveable property—entered into by the guardian of a minor—whether enforceable by the minor after attaining majority.

Held, following Mir Sarwarjan v. Fakhruddin Mahomed Chowdhuri (1), that a contract for the purchase of immoveable property entered into by the guardian of a minor cannot be specifically enforced at the option of the latter after attaining majority.

First appeal from the decree of Lala Murari Lal Khosla, Senior Subordinate Judge, Shahpur, at Sargodha, dated the 20th January 1922, granting specific performance of the contract.

OERTEL and TEK CHAND, for appellant.

Nemo, for Respondents.

The judgment of the Court was delivered by—

Sir SHADI LAL, C. J.—The facts relevant to the question of law involved in this appeal may be shortly

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stated. The defendant Malla had received from Government a grant of two squares of land on horse-breeding conditions; and in July 1920, he entered into negotiations with one Karam Dad for the sale of the land. No sale could, however, be effected without the permission of the Colonization Officer. Accordingly both Malla and Karam Dad made a joint application on 8th July 1920, to the Colonization Officer, which recited an agreement made by Malla to sell the land to Muhammad Sharif, the minor son of Karam Dad, for Rs. 22,000 and requested that sanction be accorded to the agreement. In September the Colonization Officer sanctioned the contract for the sale of the land in favour of Muhammad Sharif.

It appears that the vendor did not fulfil his part of the contract, with the result that a suit for the specific performance thereof was brought by both Karam Dad and Muhammad Sharif. The trial Court has decreed specific performance, apparently in favour of Muhammad Sharif, who was the only person who was allowed by the Colonization Officer to purchase the property.

Against this decree the defendant Malla has preferred the present appeal. The respondent Muhammad Sharif, who has since attained majority, has not appeared to defend the appeal, although notice of the appeal has been served upon him. It appears that Karam Dad died during the pendency of the appeal and that an application to implead his legal representatives was made after the expiry of the prescribed period of limitation. It is, however, unnecessary to consider the question whether the abatement of the appeal in so far as Karam Dad's heirs are concerned should be set aside, because the decree has been granted

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in favour of Muhammad Sharif, and Karam Dad should, therefore, be treated as a *pro-forma* respondent.

On the merits, the sole question is whether a contract entered into by the guardian of an infant for the purchase of an immovable property can be specifically enforced at the option of the latter. There was considerable divergence of judicial opinion on this point in India, but the matter has now been set at rest by the judgment of their Lordships of the Privy Council, *Mir Sarwarjan v. Fakhruddin Mahomed Chowdhuri* (1), which enunciates the principle that it is not within the competence of the guardian of a minor to bind the minor or the minor's estate by a contract for the purchase of immoveable property. The minor is, consequently, not bound by the contract; and there being no mutuality, he cannot, after attaining the age of majority, obtain specific performance of the contract. Whatever our own opinion may be on the subject, we are bound by the rule laid down by the Privy Council, and following that decision we must hold that the infant in the present case was not entitled to obtain a decree for the specific performance of the contract.

We accordingly allow the appeal and dismiss the suit with costs throughout.

A. N. C.

Appeal allowed.

(1) (1911) I. L. R. 39 Cal. 232 (P. C.).