

APPELLATE CIVIL.

Before Young C. J. and Rangī Lal J.

MOHAMMAD HASSAN (PLAINTIFF) Appellant

versus

CHANDU RAM (DEFENDANT) Respondent.

Civil Appeal No. 2279 of 1929.

Mortgage — for a fixed period — ‘Redemption’ — whether mortgagor can redeem before expiry of the term.

Held, that in the absence of a special condition entitling the mortgagor to redeem during the term for which the mortgage is created, the right of redemption could only arise on the expiration of the specified period.

Bakhtawar Begam v. Husaini Khanum (1), and *Mela Ram v. Prithvi Chand* (2), relied upon.

Maula v. Kutba (3), dissented from.

Second appeal from the decree of Mr. H. B. Anderson, District Judge, Multan, dated 22nd May, 1929, reversing that of Sheikh Wahid Ali, Subordinate Judge, 4th Class, Alipur, dated 18th February, 1929, and dismissing the plaintiff's suit.

VISHNU DATTA, for NAWAL KISHORE, for Appellant.

BADRI NATH, for Respondent.

The judgment of the Court was delivered by—

YOUNG C. J.

YOUNG C. J.—This second appeal arises from a suit for redemption of a mortgage which was for a term of eighty years. The trial Court held that the mortgagor could redeem at any time during the period of eighty years. The learned District Judge, following the Privy Council ruling, reported as *Bakhtawar Begam v. Hussaini Khanum* (1), held that, in the absence of a special condition entitling

(1) (1914) I. L. R. 36 All. 195 (P.C.). (2) 1929 A. I. R. (Lah.) 523.
(3) 201 P. R. 1889.

the mortgagor to redeem during the term for which the mortgage is created, the right of redemption could only arise on the expiration of the specified period. He, therefore, accepted the appeal and dismissed the suit. The plaintiff has filed a further appeal to this Court.

The learned counsel appearing on his behalf relied on *Maula v. Kutba* (1), but that decision was delivered before the Privy Council ruling referred to above. The Privy Council ruling has since then been followed by various High Courts including our own in *Mela Ram v. Prithvi Chand* (2). There is nothing in the document to show that the mortgagor was entitled to redeem during the period of eighty years. It is futile to try and guess why such a long term was fixed. We consider that there is no force in this appeal and we dismiss it with costs.

P. S.

Appeal dismissed.

(1) 201 P. R. 1889.

(2) 1929 A. I. R. (Lah.) 523.

1934

MOHAMMAD
HASSAN
v
CHANDU RAM