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With regard to the alleged admission by the defendant of his liability to the plaintiff, we think there was no such admission as could exempt the plaintiff from the necessity of proving his case. There never was any unreserved admission of liability at all; but we know of no case in which it has been held that an admission by a defendant before suit brought renders it unnecessary for the plaintiff to prove his case.

We confirm the decree with costs.

Attorneys for the appellant:—Messrs. *Craigie, Lynch and Owen.*

Attorneys for the respondent:—Messrs. *Payne, Gilbert and Sayani.*

14 B. 111.

ORIGINAL CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Bayley.

SULLEMAN EBRAHIMJI (*Original Defendant*); Appellant v.
 JOOSUB JAN MAHOMED (*Original Plaintiff*), Respondent.*
 [10th January, 1890.]

Practice—Objections—Civil Procedure Code (XIV of 1882), s. 561—Time for filing objections.

Where a respondent in order to save the costs of copying the judgment of the Court below, the decree and other documents in the case, delayed sending instructions to counsel to draw objections to the decree until the paper books had been received from the appellant, at which date the period allowed for filing objections had expired, the Court refused to extend the time, or permit the objections to be filed.

APPLICATION by respondent to file objections to the decree, under s. 561 (1) of the Civil Procedure Code, notwithstanding the expiration of one month from the date of service of the notice.

[112] The decree against which the appeal was brought, was passed on the 13th August, 1889 and the notice of the filing of the appeal was served on the respondent on the 5th September, 1889.

The respondent filed an affidavit in which he stated the following facts in support of his application, *viz.*, that, in order to save the costs of copying the judgment of the Court below, the decree and other documents in the case, his attorneys had purposely delayed sending instructions to counsel to draw objection to the decree until they had received the paper books from the appellant; that the paper books were only received by them on the 19th December; that instructions to draw objections were sent to counsel on the following day (*i.e.*, the 20th December), and a copy of the objections was furnished to the appellant's attorneys on the 21st December, and on the same day the objections were sent to the Prothonotary's office to be lodged.

* Suit No. 186 of 1889.

(1) Section "561.—Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree, on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has filed the objection in the appellate Court within one month from the date of the service on him or his pleader under s. 553 of notice of the day fixed for hearing the appeal, or within such further time as the appellate Court may see fit to allow."

Inverarity, for the respondent :—The respondent wishes to file two objections only. One is on a point which he can take in the appeal without filing any objection, but the other is that the appellant should have been ordered by the decree to pay his costs. The appellant cannot be prejudiced by the objections if allowed. The object of filing objections is to give the appellant timely intimation of the points to be taken against him—*Dinkar Parshram v. Vinayek Moreshwar* (1). We sent a copy of our objections to the appellant on the 21st December last. The Court has discretion under the Civil Procedure Code (Act XIV of 1882), s. 561, to allow the objections to be filed now.

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JUDGMENT.

SARGENT, C. J.—If we were now to allow objections to be filed in this case, it would be difficult to refuse leave to file them in any case in which a similar application might be made. Section 561 of the Civil Procedure Code requires that objections shall be filed within one month from the date of the service of notice of the appeal. We must give effect to the section. No cause has been shown here for extending the time.

Appeal refused.

Attorneys for appellant :—Messrs. *Tayabji and Dayabhai.*

Attorneys for the respondent :—Messrs. *Pestani and Rustim.*

14 B. 113.

[113] APPELLATE CIVIL.

Before Mr. Justice Scott and Mr. Justice Jardine.

DAUDBHAI RAMBHAI AND OTHERS (*Original Defendants*), Appellants,
v. DAUDBHAI ALLIBHAI AND OTHERS (*Original Plaintiffs*),
*Respondents.** [2nd April, 1889.]

Mortgage—Interest—Mortgagee's right to interest in a redemption suit—Extent of the right—Limitation.

In 1882 the plaintiffs sued to redeem a mortgage effected in 1833. The Court of first instance allowed the mortgagee interest from the date of the bond. The appellate Court reduced the interest awarded to the period of six years.

Held, reversing the decision of the lower appellate Court, that the mortgagee was entitled to claim interest from the date of the bond up to the date of the decree.

SECOND appeal from the decision of G. Jacob, Joint Judge of Ahmedabad, in appeal No. 119 of 1885.

The plaintiffs sued to redeem certain land which had been mortgaged with possession to the defendants' ancestor in 1833 A. D. to secure a loan of Rs. 110.

Under the mortgage-deed no rent was to be charged for the land, and no interest for Rs. 40 out of the sum borrowed. The remaining Rs. 70 was to carry interest at 18 *per cent. per annum.*

The Court of first instance decreed redemption on payment of Rs. 70, together with interest amounting to Rs. 638-13 calculated at the stipulated rate from the date of the mortgage upto the date of the decree.

* Second Appeal No. 485 of 1887.

(1) 11 B. 698.