

of the decree—Transfer of Property Act (IV of 1882), sections 86 and 88; *Surya Náráyan Singh v. Jogendra Náráin Roy*⁽¹⁾; *Bikramjit Tewari v. Durga Dyál Tewari*⁽²⁾.

1895.

CHATURBHAI
v.
HARBHA'MJI.

There was no appearance for the respondent (defendant).

FARRAN, C. J.—The general rule is that a plaintiff is entitled to interest in accordance with the terms of the mortgage bond up to date of decree, and that a Civil Court has not a discretion vested in it to refuse to award such interest. That rule appears to be recognized in the Transfer of Property Act, sections 86 and 88. We must, therefore, vary the decree of the lower Court by directing interest to be awarded up to date of decree. That will make the total sum payable Rs. 10,717-10-0, instead of Rs. 10,223-8-0, which was the sum awarded by the lower Court. The appellants must have their costs of appeal. The six months' time for payment will run from the date of this decree.

Decree varied.

(1) I. L. R., 20 Cal., 360.

(2) I. L. R., 21 Cal., 274.

APPELLATE CIVIL.

Before Mr. Justice Parsons and Mr. Justice Candy.

MOTIRA'M RAGHUNA'TH, DECEASED, BY HIS HEIRS AND SONS GULA'B-
CHAND AND OTHERS, PLAINTIFFS AND DECREE-HOLDERS, v. BHIVRA'J
VALAD KHEVRA'J, DEFENDANT AND JUDGMENT-DEBTOR.*

1895.

August 15.

Civil Procedure Code (Act XIV of 1882), Sec. 307—Vacation—Holiday—Days on which the office is open—Office day—Payment of purchase-money for property bought at Court-sale.

The time during which a Court is closed for the vacation is not a holiday within the meaning of section 307(1) of the Civil Procedure Code (Act XIV of 1882). Days on which the office is open and the purchase-money for property bought at a Court-sale could have been paid are office days.

* Civil Reference, No. 13 of 1895. •

(1) Section 307.—The full amount of purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day; or if the fifteenth day be a Sunday or other holiday, then on the first office-day after the fifteenth day.

1895.

MOTIRAM
v.
BHIVRAJ.

REFERENCE by Ráo Sáheb V. D. Joglekar, Subordinate Judge of Kade in the Ahmednagar District, under section 617 of the Civil Procedure Code (Act XIV of 1882).

The reference was made in the following terms:—

“Certain immoveable property was set up for sale in darkhást No. 386 of 1894. One Ratanchand valad Javanmal Márwádi purchased it on 19th April, 1895, for Rs. 107 and paid duly a deposit of Rs. 26-12-0 as required by section 306 of the Code of Civil Procedure. The full amount of the purchase-money was paid on 3rd June, 1895, instead of on the fifteenth day after the date of the sale as required by section 307. The Courts in the district were closed for annual vacation from 23rd April to 2nd June, both days inclusive. The purchaser contends that the Court was closed when the money became payable, and so he paid on the first day when the Court was opened.

“Now the question to be determined in the case is whether the annual vacation to the Court can be considered as a *holiday* under section 307 of the Code of Civil Procedure.”

The opinion of the Judge was in the negative.

PARSONS, J.:—We agree with the Subordinate Judge that the time during which a Court is closed for the vacation is not a holiday within the meaning of section 307, Code of Civil Procedure. Days on which the office is open and the purchase-money could have been paid are office days.

Order accordingly.