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the possession any the less adverse to Rau: *Cholmondeley v. Clinton*.<sup>(1)</sup>

Any title that Rau may have had thus became extinguished and as against the mortgagee Godaji and anyone claiming under him; the right to redeem the property is in the plaintiffs. The decree of the lower Appellate Court must, therefore, be confirmed with costs.

*Decree confirmed.*

(1) (1921) 4 BIRH N. S. 109.

## APPELLATE CIVIL.

*Before Mr. Justice Chandavarkar and Mr. Justice Jacob.*

1903.  
August 12.

VINAYAK MAHADEV GHATE (ORIGINAL DEFENDANT NO. 2), APPELLANT, v. LAKSHMAN NARAYAN BHAGWAT (ORIGINAL PLAINTIFF), RESPONDENT.\*

LAKSHMAN NARAYAN BHAGWAT (ORIGINAL PLAINTIFF), APPELLANT, v. VINAYAK MAHADEV GHATE (ORIGINAL DEFENDANT NO. 2), RESPONDENT.\*

*Inamdar—Arrears of assessment—Occupancy tenant—Purchaser from the occupancy tenant—Decree for assessment—Money decree against the occupants—Charge on land.*

The plaintiff, an Inamdar, sued to recover assessment due for the years 1895-96 and 1896-97 from defendant 2 who came in as a purchaser from the original occupancy tenant on the 5th April, 1899. The lower Courts passed a personal decree against defendant 2 for the arrears of assessment.

*Held*, that defendant 2 was not liable, since an Inamdar suing for assessment was not entitled to a charge on the lands but only to a money decree against the occupants.

*Ratanji v. Sakharam* (1) followed.

CROSS-APPEALS from the decision of V. V. Phadke, First Class Subordinate Judge, A. P., at Thána, varying the decree passed by R. B. Chitale, Subordinate Judge of Pen.

The plaintiff, an Inamdar, brought this suit on the 10th December, 1897, to recover assessment due for the years 1895-96

\* Cross-appeals Nos. 78 and 108 of 1902.

(1) (1884) P. J. p. 68.

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and 1896-97. The suit was originally brought against Vinayak Vishnu Joshi (defendant 1) alone. The plaintiff subsequently applied to join as additional defendant Vinayak Mahadev Ghate (defendant 2), on the ground of his having purchased the interest of the original defendant at an auction-sale on the 5th April, 1899. Defendant 3 was added on the ground that he held half the land on a partition effected between the parceners.

Defendant 2 contended, *inter alia*, that as he purchased the land in 1899 he was not liable for the arrears.

The Subordinate Judge passed a decree in plaintiff's favour, directing him to recover the assessment due from defendants 2 and 3.

On appeal, the lower Appellate Court held that the assessment was a charge on the land and the purchaser purchased the land *pendente lite* and defendant 2 was, therefore, responsible for the arrears of assessment. The Court further held that the claim against defendant 3 was time-barred.

Plaintiff and defendant 2 preferred cross-appeals to the High Court.

## APPEAL No. 78 OF 1902.

*G. S. Rao*, for the appellant.

*M. B. Chaubal*, for the respondent.

## APPEAL No. 108 OF 1902.

*M. B. Chaubal*, for the appellant.

*V. N. Munohar*, for the respondents.

CHANDAVARKAR, J.:—The District Judge has passed a personal decree against defendant 2, although admittedly defendant 2 came in as purchaser on the 5th April, 1899, and the suit is in respect of assessment due for the years 1895-96 and 1896-97. Obviously, therefore, the decree against defendant 2 must be set aside. The lower Appellate Court seems to have passed the decree against defendant 2, under the impression that the amount of assessment for 1895-96 and 1896-97 was a charge upon the land. But an Inamdar is not entitled to a charge on the lands but only to a money decree against the occupants, as was held

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in *Ratanji v. Sakharam*.<sup>(1)</sup> Following that ruling we reverse the decree of the lower Appellate Court against defendant 2.

Defendant 2 should have his costs of this appeal and of the appeal to the lower Appellate Court. We make no order as to the costs in the first Court.

With regard to the points raised in Second Appeal No. 108 of 1902, we think that we are bound by the decision in *Sadashiv v. Ramkrishna*,<sup>(2)</sup> and the six years' rule must apply.

In accordance with that decision we vary the decree of the lower Appellate Court and direct that the plaintiff do recover Rs. 36-4-0 out of the amount claimed in the plaint with interest thereon at 9 per cent., from the date of the suit to the date of satisfaction, from defendant 3, Damodar Narayan Joshi, with costs in proportion throughout.

*Decree varied.*

(1) (1884) P. J. p. 68.

(2) (1901) 25 Bom. 556.

## APPELLATE CIVIL.

*Before Mr. Justice Chandavarkar and Mr. Justice Aston.*

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August 17.

NINGAWA KOM NINGANGAVDA MANTUR AND OTHERS (ORIGINAL DEFENDANTS), APPELLANTS, v. RAMAPPA AND FOUR OTHERS (ORIGINAL PLAINTIFFS), RESPONDENTS.\*

*Misjoinder of parties—No adverse interest as between the parties—Limitation Act (XV of 1877), schedule II, article 110—Adoption—Suit to declare validity of adoption—Interference with adopted son, nature of.*

Plaintiff 1, the daughter of Ningangavda, and plaintiff 2, the adopted son of Ningangavda, together brought a suit against the defendants to recover possession of Ningangavda's property. The right alleged in plaintiff 1 was that she had been living with plaintiff 2, in the house of which possession had been given to the first defendant under a decree of the Muzlatdkr. The plaint contained no averment asking for relief in favour of plaintiff 1 in the event of plaintiff 2's adoption being found not proved. On an objection having been raised as to misjoinder of parties,

\* Appeal No. 6 of 1902.