

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Jamna Das v. Pandit Ram Autar Pande and others, from the High Court of Judicature for the North-Western Provinces, Allahabad; delivered the 2nd November 1911.

PRESENT AT THE HEARING :

LORD MACNAGHTEN.

LORD ROBSON.

SIR JOHN EDGE.

MR. AMEER ALI.

[DELIVERED BY LORD MACNAGHTEN.]

This is a perfectly plain case. The action is brought by a mortgagee to enforce against a purchaser of the mortgaged property an undertaking that he entered into with his vendor. The mortgagee has no right to avail himself of that. He was no party to the sale. The purchaser entered into no contract with him, and the purchaser is not personally bound to pay this mortgage debt. Therefore, he is not a person from whom, in the words of the 90th section of the Transfer of Property Act, "the balance is legally recoverable."

Their Lordships will therefore humbly advise His Majesty that this Appeal must be dismissed with costs.

In the Privy Council.

JAMNA DAS

v.

PANDIT RAM AUTAR PANDE
AND OTHERS.

DELIVERED BY LORD MACNAGHTEN.

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