

(1910) 04 AHC CK 0007
In the Allahabad High Court

Girraj Singh and Others

APPELLANT

Vs

Raghubans Kuar and Others

RESPONDENT

Date of Decision : 05-04-1910

Acts Referred:

Limitation Act, 1877 — Article 61

Citation : 6 Ind. Cas. 878

Hon'ble Judges : John Stanley, C.J; Banerji, J

Bench : Division Bench

Judgement

1. Under the terms of the compromise in the pleadings mentioned, the village of Ladana fell to the lot of the plaintiffs. It was provided by the compromise that all incumbrances, affecting this village, should be paid by the defendants, on or before the 31st of January, 1903. The defendants failed to pay off an incumbrance and thereupon the plaintiffs, on the 29th of June, 1904, paid the amount due on foot of that incumbrance and so saved the property from sale. They then brought the suit, out of which this appeal has arisen, on the 15th of June, 1907, which is within three years from the date when the payment was made by them. The Court below dismissed the suit on the ground that it is barred by limitation. The learned Officiating Subordinate Judge in his judgment states that the date of default by the defendants was the 31st of January, 1903, and that the plaintiffs were entitled to demand the money from the party indebted on the 1st of February, 1903, and their cause of action accrued on that date. We do not agree with the learned Judge in this view of the law. The suit is a suit for money paid for the defendants, with in Article 61 of Schedule II of the Limitation Act of 1877. They had, therefore, three years within which to bring a suit from the date when the money was paid by them, that is, within three years from the 29th of June, 1904. As the plaintiffs' suit has been dismissed on a preliminary point, and we have overruled the Court below upon this point, we allow the appeal, set aside the decree of the Court below and remand the suit under Order XLI, Rule 23, of the Code of Civil Procedure, with directions that it be re-admitted on the file of pending suits, in its original number, and be

disposed of according to law. The appellants will have the costs of this appeal. All other costs will abide the event. The costs in this Court will include fees on the higher scale.