
(1921) 11 CAL CK 0012
In the Calcutta High Court

Srimati Sarashibala Dassi, Administratrix to The Estate of Her
husband Jatindra Mohan Kumar

APPELLANT

Vs

Chooni Lal Ghose

RESPONDENT

Date of Decision : 23-11-1921

Acts Referred:

Contract Act, 1872 — Section 201, 209

Citation : AIR 1922 Cal 53 : 65 Ind. Cas. 219

Hon'ble Judges : Panton, J;N.R. Chatterjea, J

Bench : Division Bench

Judgement

1. This appeal arises out of a suit for accounts against, an agent, and the question involved in the appeal is whether the claim for accounts from 1301 to 9th Sraban 1319 corresponding to 25th July 1912 is barred by limitation.

2. The-defendant acted as gomasta under the plaintiff's husband Jotindra until his death, which took place on the 25th July. 1912, He then acted as the plaintiff's agent. The suit having been brought more than three years after the death of Jotindra, the claim for accounts for the period before the death of Jotindra has been held to be barred under Article 89 of the Limitation Act. As provided by Section 201 of the Contract Act, an agency is terminated by either the principal or agent dying, and a suit against the agent for the period during which he acted as agent under the deceased must, therefore, be brought within three years of the death, as laid down in Article 89 of the Limitation Act. See Madhusudan Sen v. Rakhal Chandra Das Basak CO Ind. Cas. 697 : 48 C.248 : 22 C.L.J. 552 : 19 C.W.N. 1070 and Chandra Madhab Barua v. Nabin Chandra Barua 18. Ind. Cas. 735 : 40 C. 108 : 17 C.L.J.

3. It is, however, contended on behalf of the appellant that the case comes u/s 209 of the Contract Act. That section lays down that when an agency is terminated by the principal dying or becoming of unsound mind, the agent is bound to take, on behalf of, the representatives of his late principal, all reasonable steps for the protection and preservation of the interests entrusted to

him it is contended that the defendant was in the position of a trustee so far as the interest of the deceased was concerned and that the suit for accounts against him would be in time if instituted within six years from the death of the plaintiff's husband under Article 120 of the Limitation Act.

4. There is, however, no question here of suing the defendant for any act done by him after the death of his late principal, which he might have done as a trustee. The suit is for accounts on the ground that he was bound to render accounts to his, late principal during his lifetime, which he did not render. That would be a suit for accounts under Article 89 of the Limitation Act.

5. We think the Court below is right in holding, that the claim for the period prior to the death of Jotindra was barred by limitation.

6. The appeal accordingly fails and is dismissed with costs.