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**THE
PUNJAB
ALIENATION OF LAND ACT**

No. XIII of 1900.

*(As amended by Punjab Act, 1 of 1907 and by Schedule 1
of Devolution Act, 38 of 1920.)*

WITH

Case law, rules and orders of the Chief Court, Government
Notifications and rules, Financial Commissioners' standing
orders No. 1, 23 and 64, rules and extracts from
the Punjab Registration and Land Adminis-
tration Manuals, Statement of Objects
and Reasons etc., etc.

Supplemented by

The Punjab Redemption of Mortgages Act, 1913, The Land
Conditional Sales Regulation, (Bengal), 1798, and
The Land Redemption and Foreclosure
Regulation (Bengal), 1806 with notes
of decided cases.

BY

**NIHAL CHAND ANAND, B.A.,
Pleader.**

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To

THE HON'BLE

SIR SHADI LAL, KT., M. A., B. C. L.

CHIEF JUSTICE.

OF

The High Court of Judicature, Lahore.

THIS BOOK

IS

BY HIS LORDSHIP'S PERMISSION,

RESPECTFULLY DEDICATED.

PREFACE.

An apology is hardly needed for writing a commentary on the Punjab Alienation of Land Act as apart from the intrinsic importance of the subject the best known book on the subject that of Sir Shadi Lal's has been long out of print, its last edition having been published in 1907. Many changes have taken place since then. A number of rules, notifications have been promulgated by the Executive Government as well as the Financial Commissioners and it is no easy task for the busy lawyer or the student of law to find the rules bearing on the subject. The Highest Courts of the Province have also been busy interpreting the various provisions of the Act and a fair amount of case law bearing on the subject has found its way into the law reports. It has been my endeavour to collect all this material and to present it in an accessible form to the busy lawyer and the student of law. It is hoped that the book will be found useful by members of the Judiciary as well as Revenue Officers.

In the various Appendices to the book I have collected the relevant rules and notifications etc. bearing on the subject.

The Supplement contains the Punjab Redemption of Mortgages Act, 1913, Land Conditional Sales Regulation, (Bengal), 1798, and the Land Redemption and Foreclosure Regulation (Bengal), 1806, with case law thereon upto the end of December 1923.

No pains have been spared to make the book exhaustive.

In the end I cannot omit to express a sense of gratitude to Lala Jagan Nath, Aggarwal, M. A. Vakil High Court, Lahore for the valuable suggestions made by him.

JULLUNDUR CITY,
15th January, 1924. }

NIHAL CHAND ANAND,

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ADDENDA.

—o—

Note.—Decisions referred to in the addenda are noted in the Table of Cases.

Page 5 after line 15 from the top add.—But the Act does apply to a case where service of notice of foreclosure is effected within one year before the Act came into force. The proceedings for the enforcement of foreclosure of mortgage comprising a stipulation of conditional sale remain pending until the year of grace has expired. *Bajrang Das v. Ghani Ram*, All India Reporter, 1923 (Lah.) 299.

Page 5 Applicability. North-West Frontier Province.—The Punjab Alienation of Land Act was with certain modifications made applicable to the Frontier Province by Regulation 1 of 1904, which came into force on the 11th June 1904 and which runs as follows:—

Regulation No. 1 of 1904.

A Regulation to provide for certain modifications in the Punjab Alienation of Land Act, 1900, in so far as it extends to the North-West Frontier Province; It is hereby enacted as follows:—

I. The said Act shall, in so far as it extends to the said Province, be modified as follows, namely:—

(i) Section 2, clause (1), section 3, sub-section (1), clause (b), and the proviso to section 3, sub-section (1) shall be omitted, and

(ii) in section 2, clause (3), after sub-clause (u), the following sub-clause shall be added, namely:—

“(aa) any rights of occupancy acquired under the Punjab Tenancy Act, 1887, the Hazara Tenancy Regulation, 1887, or the Agror Valley Regulation, 1891, as the case may be.”

Page 13, line 7 from bottom, add—(6) land used for manufacture of salt petre. *Seth Karori Mal v. Wasawa*, All India Reporter, 1923 (Lah.) 462.

Page 13. Agricultural land.—Though a plot of land is assessed to land revenue it does not become an agricultural land unless the plot is proved as occupied or let for agricultural purposes or purposes sub-servient to agriculture. *Mohammad Said v. Shah Nawas*, 60 I. C. 580 (Lah.).

Page 45. Effect of notification not retrospective. A mortgage effected by a member of a *kureshi* tribe prior to the date when the *kureshis* were notified as agriculturists under the Punjab

Alienation of Land Act can be given effect to in a suit filed subsequent to the said notification (No. 44, dated 4th March 1911) by which the *kureshis* were included in the list of agricultural tribes. *Miran Bakhsh v. Milkhi Ram*, All India Reporter, 1923, (Lah.) 673.

Page 57. Right of the Official Receiver to redeem.—There was a mortgage in the form permitted by section 6 (1) (a) of the Alienation of Land Act. The mortgagor became insolvent and the official receiver applied for redemption of the land under section 7 (3) of the Act. *Held*, by the Financial Commissioner that the official receiver is in the position of the mortgagor and is clearly the representative of the mortgagor. So far as the mortgagor's rights vest in the official receiver, the official receiver is competent to enforce them, and his application to redeem the land is quite valid. *Lala Deoki Nandan v. Budh Ram*, 2 Lahore Law Times 15.

Page 288. Post diem Interest.—(1) When the mortgage deed contains no express stipulation for the payment of interest after the due date, the correct rule is that the law raises no presumption either in favor of or against an implied intention to pay interest after the due date. If the Court reaches the conclusion that there is neither an express nor an implied covenant for payment of interest after due date, then the mortgagee cannot recover interest, as such, after that date. The mortgagee is however entitled to damages on account of the failure of the debtor to pay the debt at the stipulated time. The measure of damages would prima facie be the same as the rate of interest agreed upon, but the Court has discretion to reduce the rate, if it is found to be unusual. As regards the period for which interest by way of damages can be recovered, if the mortgagee invokes the assistance of the Court in the capacity of plaintiff he can recover damages only for the period prescribed by the law of limitation for a suit for compensation for the breach of the contract. If on the other hand he happens to be a defendant, he is entitled to recover damages for the entire period during which the principal sum has remained unpaid. *Motan Mal v. Muhammad Bakhsh*, I. L. R. 3 Lahore 200. (F. B.) (2) In the case of mortgages comprising a stipulation of conditional sale, a covenant to pay *post diem* interest up to the date of redemption must be implied unless there are very strong reasons to the contrary. *Ram Sarn Das v. Mula*, I L. R. 4 Lah. 346.

Page 377. Section 12, Dismissal of application for redemption-Limitation for a regular suit.—An application by a mortgagor for redemption of a mortgage under the provisions of the Punjab Redemption of Mortgages Act having been dismissed by the Collector under Section 9 of the Act, on the ground that the claim was barred by limitation, the mortgagor brought a regular suit in the Civil Court for redemption of the mortgage. *Held*, that the suit was practically one under section 12 of the Act to set aside the order of the Collector and fell within the purview of article 14 of schedule 1 to the Indian Limitation Act and having been brought after one year from the date of the Collector's order, was barred by time. *Ram Chand v. Kaura*, 75 I. C. 885.



CORRIGENDA.

ACT

- Page 12, last line *read* record *for* ecord.
,, 25, line 14 from bottom *read* welfare *for* walfare.
,, 31, last name of tribe *read* Pathan *for* Patn.
,, 35, Foot note, *add* † before last line.
,, 40, line 5 from top, *read* alienations *for* abenations.
,, 45, line 15 from top, *read* mortgagor *for* mortgager.
,, ,, ,, 17 from bottom, *read* mortgagor *for* mortgagee.
,, ,, ,, 3 ,, ,, ,, plaintiffs' *for* plaintiff's.
,, 66, ,, 6 ,, ,, ,, section *for* section.
,, 70, ,, 10 ,, ,, ,, refused *for* renfused.
,, 72, ,, 15 from top ,, agrees *for* agree.
,, 77, ,, 10 ,, ,, ,, original *for* origira.
,, 102, ,, 7 from bottom, ,, Commissioner's *for* Commssioner's.
,, 105, ,, 4 from top ,, Chief Court *for* Court.
,, 108, ,, 14 from bottom, ,, Phuman *for* Phnman.
,, 112, ,, 18 from top ,, disposed of *for* disposed.

APPENDICES.

- Page 120, line 16 from top after the words stamp duty add as is not
in excess of the Stamp duty.
,, 124, ,, 9 from top *read* alienation *for* alientation.
,, 131, ,, 8 from bottom *read* equitable *for* equitale.
,, 133, ,, 6 from top delete act.
,, 134, ,, 12 from bottom *read* 1900 *for* 1910.
,, 138, ,, 7 ,, ,, ,, register *for* rigister.
,, 140, ,, 19 ,, ,, ,, separate *for* separte.
,, 140, ,, 3 from top ,, alienation *for* abenation.
,, 144, ,, 17 ,, ,, ,, tribes *for* tibe.
,, 148, Shahpur column 2 ,, Ahir above Arain.
,, 151, line 17 from top ,, Sheikhs *for* Seikha.
,, 151, ,, 17 ,, ,, ,, tribe *for* trible.
,, 153, ,, 11 ,, ,, ,, thereof *for* therof.

Page 153, margin *read* mortgages for mortgagages.
,, 157, line 15 from top *read* or *for* of.
,, 159, ,, 12 ,, ,, ,, In *for* In.
,, 169, ,, 17 ,, ,, ,, requires *for* require.
,, 192, ,, 6 ,, ,, ,, see *for* ses.
,, 231, ,, 7 ,, ,, ,, 23rd *for* 23th.

SUPPLEMENT.

Page 273, line 9 from bottom *read* in deposit *for* eposit.
,, 276, ,, 19 from top ,, were *for* was.
,, 282, margin *read* Reg. 1 of 1798 *for* Reg. 2 of 1806.
,, 283 to 288 margin *read* Reg. 17 *for* Reg. 2.
,, 293, line 11 from top *read* was *for* was.
,, 296, ,, 12 from bottom ,, or *for* on.
,, 308, ,, 11 ,, ,, ,, XVII *for* XVI.
,, 309, ,, 5 ,, ,, ,, the *for* he.

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