

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT JUDICIAL DEPARTMENT.

FAB No.28-P of 2016

J U D G M E N T

Date of hearing : 15th December, 2021

Appellants : By Mr. Ahmad Saleem Khan,
(General Manager, House Advocate.
Building Finance Company)

Respondent : By Nemo
(Muhammad Fayaz Khan)

QAISER RASHID KHAN, CJ.-Through this single

judgment, we propose to decide this FAB No.28-P/2016 as well as connected FABs No.29-P, 30-P, 31-P, 33-P, 34-P, 35-P & 36-P of 2016 as common questions of law and facts are involved in all these appeals, wherein the appellant-plaintiff has called in question the judgments and decrees dated 08.06.2016 of the learned Judge, Banking Court-II, Peshawar, whereby his suits against the respondents-defendants have been dismissed on the ground of limitation.

2. The record depicts that the various respondents-defendants in all the appeals had availed of house building finance facility from the appellant-corporation on different occasions during eighties and nineties and by way of security, they had mortgaged their respective properties in favour of the

appellant-corporation. Thereafter, on the default of the respondents-defendants to pay off their liabilities through installments in accordance with the terms and conditions of the agreements, entered into between the parties, the appellant-corporation was constrained to file several recovery suits against them before the learned Judge, Banking Court-II, Peshawar, which were finally dismissed on the ground of limitation vide the impugned judgments and decrees dated 08.06.2016. Hence, the present appeals by the appellant-corporation.

3. In the event of failure on the part of the respondent-defendants to pay off their liabilities, the appellant-corporation should have filed recovery suits against them within twelve years as envisaged under Article 132 of the Limitation Act, 1908. The said provision of law clearly provides the limitation period of 'Twelve Years' when the money sued for becomes due so as to enforce payment of money charged upon immovable property. As against that, the recovery suites were filed by the appellant-corporation beyond the prescribed period of limitation.

4. During the course of arguments, when questioned as to whether during the intervening period, any payments were made by the respondents-defendants so as to bring the appellant's suits within the period of limitation, the learned

counsel for the appellant-corporation frankly states that no such payments towards liquidation of their outstanding dues were made by any of the respondents-defendants.

Such being the position, we understand that the learned trial / Banking Court has rightly appreciated the question of limitation while handing down the impugned findings whereby the recovery suits of the appellant-corporation have been dismissed being time barred.

5. Resultantly, these appeals being without any substance stand dismissed with no order as to costs.

Announced
15. 12. 2021


CHIEF JUSTICE


JUDGE