

1937

*Present : Soertsz and Hearne JJ.*COOMARASWAMY *v.* FERNANDO.

196—D. C. (Inty.) Kalutara, 17,049.

Mortgage decree—Property purchased by the plaintiff—Interest on aggregate sum—Recoverable from date of sale to confirmation.

A mortgagee, who in execution of a hypothecary decree purchases the property mortgaged to him is entitled to recover interest on the aggregate amount decreed to him from the date of sale until its confirmation.

A PPEAL from an order of the District Judge of Kalutara.

N. E. Weerasooria (with him *G. P. J. Kurukulasuriya*), for first defendant, appellant.

E. B. Wikremanayake, for plaintiff, respondent.

Cur. adv. vult.

June 29, 1937. HEARNE J.—

The point in this appeal which involves a sum of approximately Rs. 1,200 is whether the plaintiff in the lower Court, here the respondent, who had become the purchaser of the defendant's property against which he had issued an order of sale in order to recover the amount due to him on a decree of Court, is entitled to recover interest on the full amount of the said decree for the period between the sale and its confirmation. To my mind he is entitled to interest up to the confirmation of sale as the decree is not satisfied till the sale has been confirmed. This was the *ratio decidendi*, with which I respectfully agree, in the case of *Ganesh v. Purshottam*¹ which was followed in *Khalil-ur-Rahaman v. Gokul Prasad* reported in (1919) *I. L. R.* 41 *All.* 526.

The appeal is dismissed with costs.

SOERTSZ J.—I agree.

Appeal dismissed.