

IN THE SUPREME COURT OF FIJI

Appellate Jurisdiction

Civil Appeal No. 31 of 1961

Between:

RAM SEWAK

Appellant

v.

RAM AUTAR

Respondent

Moneylenders Ordinance (Cap. 207)—s. 18 (1)—moneylender failing to keep regular account—claim unenforceable.

In an action by the appellant, a moneylender, for the recovery of moneys lent, the trial magistrate found that the account upon which the appellant relied had been subsequently prepared for the purpose of the court proceedings. The magistrate awarded judgment against the moneylender.

Held.—that the appellant's claim was correctly adjudged to be unenforceable since the appellant had failed to keep a "regular account" within the meaning of s. 18 (1) of the Moneylenders Ordinance (Cap. 207).

R. I. Kapadia for the Appellant.

F. M. K. Sherani for the Respondent.

KNOX-MAWER, Ag. J. (27th October, 1961).

In two consolidated actions before the Magistrate's Court of the First Class, Ba, the appellant, a licensed moneylender under the Moneylenders Ordinance, Cap. 207, sought to recover certain moneys, plus interest, loaned to the respondent. The learned trial Magistrate awarded judgment for the respondent on the ground that the appellant had failed to keep or cause to be kept a "regular account" within the meaning of section 18 (1) of the Ordinance. Section 18 reads as follows:

"18 (1) Every moneylender shall keep or cause to be kept a regular account of each loan made after the commencement of this Ordinance clearly stating in plain words and in English numerals with or without the numerals of the script otherwise used the terms and transactions incidental to the account entered in a book paged and bound in such manner as not to facilitate the elimination of pages or the interpolation or substitution of pages.

(2) If any person subject to the obligations of this section fails to comply with any of the requirements thereof, he shall not be entitled to enforce any claim in respect of any transaction in relation to which default shall have been made. He shall also be guilty of an offence under this Ordinance and shall be liable to a fine not exceeding five pounds, or in the case of a continuing offence, to a fine not exceeding twenty shillings for each day or part of a day during which such offence continues."

It is clear that the "account" upon which the appellant relied had indeed been prepared subsequently and for the purpose of these proceedings. In such circumstances the court below was correct in holding that the appellant had contravened section 18 (1) of the Ordinance and that his claim was therefore unenforceable. There is no merit in the grounds of appeal argued before this court. The appeal is dismissed.