

Article to be paid to the creditor



**ASSIGN
BUSTER**

Article 53 relates to a suit by the vendor of an immovable property for personal payment of unpaid purchase money. Article 53 governs suit for unpaid consideration money payable to or to the order of the vendor under the agreement to sale is independent of right under the sale.

Article 53 is not applicable where no time is fixed for completing the sale deed the purchase money was not payable till some date after the conveyance of the property. In *Baburam v. Inamullah*, (AIR 1934 All. 411), it has been held that when the vendor had the obligation to pay the purchase money to the creditor of the vendor and the vendor had broken the contract and the vendor had filed the suit to recover the amount which was to be paid to the creditor out of the purchase money, such suit would not attract the Article 53. The limitation provided in Article 53 runs from the time fixed for completing the sale or where the title is accepted after the time fixed for completion, on the date of acceptance of the title. In *Kazim Sher v. Jaswant Dei*, (1969 BLJR 500), a vendor executed a sale deed in favour of A on 1st November, 1945 and then executed a second sale deed in favour of on 21st November, 1945 and compulsory j registration of the A's sale deed was ordered on 11th May, 1946.

A suit by the vendor of A for unpaid purchase money must be brought within three years from 11th May, 1946 and not from the date when the suit for declaration of title filed by was finally disposed on 27th April, 1959.