

CASE SUMMARY

Amit Chhabra v K Anuradha & Anor

Court of Appeal affirms that a sale-and-purchase agreement used to mask an illegal moneylending transaction is void and unenforceable

 **Contracts Act 1950 & Moneylenders Act 1951**

Facts

When K Anuradha, a widow with two children, needed RM44,000, she turned to Amit Chhabra for financial assistance. He gave her the loan but charged interest at 7 percent per month (approximately 84 percent per annum). To secure the loan, the parties executed a sale-and-purchase agreement dated 5 August 2019 for Anuradha's house in Bayu Perdana, Klang. Anuradha made some repayments but later fell into difficulty when one of her daughters became ill.

Needing further funds, she sought to borrow an additional RM50,000 from Amit. She was told to sign a statutory declaration confirming the loan and to deliver vacant possession of the house. She did. However, she never received the RM50,000. Amit later filed a suit seeking specific performance of the sale-and-purchase agreement, effectively claiming ownership of the house.

Legal Issue

Whether the sale-and-purchase agreement was a sham intended to mask an illegal moneylending transaction, and whether the High Court was correct to declare it null and void and to award consequential relief including the return of the property, a refund of interest, damages for lost rental income, and exemplary damages.

Held (Court of Appeal, 1 July 2026)

The Court of Appeal unanimously dismissed Amit Chhabra's appeal and upheld the High Court's decision. The sale-and-purchase agreement was a sham designed to conceal an unlawful moneylending arrangement. The High Court's orders were affirmed:

- Amit was to deliver vacant possession of the house to Anuradha within 14 days.
- Amit was to refund RM17,600 in interest unlawfully collected.
- Anuradha was awarded RM82,800 in damages for loss of rental income while Amit occupied the house, with further damages to accrue until possession was returned.
- Exemplary damages of RM50,000 each were awarded to Anuradha and the law firm (AG Roseli & Paul).
- The Court of Appeal ordered Amit to pay RM20,000 in costs to Anuradha and the law firm.

Key Reasoning

- The sale-and-purchase agreement was not a genuine contract of sale; its purpose was to provide security for a loan at an unlawful interest rate. The agreement was therefore void as a sham transaction.
- The loan was illegal on two grounds: Amit lacked a moneylending licence, and the 7 percent monthly interest rate he charged was unlawful.
- The court rejected the claim for specific performance because the underlying transaction was tainted by illegality; a court will not enforce a contract that is unlawful.
- The requirement that Anuradha sign a statutory declaration and deliver vacant possession as conditions for a loan that was never fully disbursed was a factor that aggravated the conduct and supported the award of exemplary damages.
- Amit's claim that the law firm had failed to perform its duties in preparing the agreement and acting as stakeholder was dismissed – a decision the Court of Appeal affirmed.

Practical Significance

Borrowers should never sign away property rights as security for a personal loan, especially when the terms are informal or the interest rate is excessive. A document that appears to be a sale-and-purchase agreement will be examined by the court to determine the true nature of the transaction. Unlicensed moneylending and unlawful interest rates both render the loan illegal, and any security obtained under such an arrangement cannot stand. The case also serves as a reminder to lawyers and conveyancers to scrutinise the substance of a transaction, not merely its form.

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