

**(1913) 03 AHC CK 0015**

**Allahabad High Court**

**Case No:** None

Babu Lal

APPELLANT

Vs

Phaggu Mal

RESPONDENT

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**Date of Decision:** March 13, 1913

**Citation:** (1913) ILR (All) 325

**Hon'ble Judges:** Harry Griffin, J; Chamier, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

Harry Griffin and Chamier, JJ.

The plaintiff in this case, who is respondent here, agreed to supply the defendant with stone for building purposes. The stone was delivered at Karnal, but on examination it was found to be wholly unsuitable to the purposes for which it was supplied. The defendant then brought a suit against the plaintiff in the Punjab and obtained a decree for a refund of the price of the stone and for damages. The plaintiff has now brought this suit asserting that it was the duty of the defendant to return the stone to him. The defendant's plea is that he is not bound to put himself to the expense and trouble of returning the stone, and that it was the business of the plaintiff to take the stone away if he was so minded. The case appears to be covered by a decision of the Court of Common Pleas in England in the case of Grimoldby v. Wells (1). We hold that it was not the duty of the defendant to return the stone, and that the plaintiff has no cause of action against him. It was sufficient for the defendant to notify to the plaintiff that the stone was lying at Karnal at his risk. That, and more than that, has been done by the defendant in the present case. The decision of the lower appellate court cannot be supported. We allow this appeal, set aside the decree of the lower appellate court and dismiss the plaintiff's suit with costs in all courts.