

## Case Brief

The plaintiff in this case is mother who sued her son (the defendant).

The facts of the case are as follows: the plaintiff sued the defendant for the refundation, which she (as well as her daughter and the son) obtained from the sale of community real property. In 1994 the plaintiff (mother), the defendant (son) and the daughter signed an agreement about the terms of the payment, where they arranged that half of the purchase price would be sent to son's account and half of the purchase price would be sent to daughter's account. The plaintiff didn't receive anything. In 1999 the plaintiff called on the defendant to refund money, but the defendant didn't perform plaintiff's request. In the first instance, the court ruled in favour of the plaintiff in reason of an unjust enrichment. The defendant appealed to appeal court, which held in favour of the defendant, because the defendant raised the objection of the limitation of time and the appel court reasoned that the right to refund was subject to the limitation of time.

The question raised by this case is whether it should be given priority to the limitation of time or to the principle of good manners in family relationships.

Constitutional court ruled in favour of the plaintiff. It definitely preferred the principle of good manners.

The court argued that although raising of the limitation of time isn't contrary to the principle of good manners, in this case (in relationship between mother and son) is the exercise of raising of the limitation of time immoral. The court noted that in a family as a base of the society should be good manners cultivated and courts have to contribute to this process.

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