RESEARCH QUESTION

"What legal checks should a flat buyer in India do before purchase, including title verification, encumbrance certificate, occupancy certificate, RERA registration, and litigation search, and what have courts held about builders selling without approvals?"

Pre-Purchase Legal Due Diligence for Flat Buyers in India and Builder Liabilities for Selling Without Statutory Approvals

TL;DR

A flat buyer in India must conduct exhaustive legal checks, including title search, encumbrance verification, litigation tracking, and RERA registration status, because relying on mere revenue mutation records is insufficient to establish valid title or claim bona fide purchaser status under Section 41 of the Transfer of Property Act, 1882. The Supreme Court in *M/s. Newtech Promoters and Developers Pvt. Ltd. v. State of UP & Ors.* (2021) and *Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan* (2019) has established that builders who sell, offer, or hand over possession of flats without obtaining statutory occupancy and completion certificates commit a per se illegal act and a deficiency in service, entitling buyers to refuse possession and seek a full refund of their deposits with interest.

VERIFIED CASES	STATUTES	LATEST RULING
25	5	2025
16 *High Courts* · 9 *SC*		*Orissa High Court*

CONTENTS

I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Limits of Mutation Records in Title Verification

Municipal mutation entries are not documents of title, and flat buyers must trace parent title deeds to confirm clear, marketable ownership because relying solely on public registry listings without deep title search prevents any subsequent plea of being a bona fide purchaser. This principle is established in *Raj Kumar Sethi v. Janki Devi* (2017).

02 Indices Verification for Constructive Notice of Encumbrances

Buyers are only imputed with constructive notice of prior registered charges and mortgages if the transaction is properly entered and completely indexed in the registry records, meaning that thorough physical inspection of registration indices (such as Index II) is required to ensure no hidden encumbrances exist. This principle is established in *Dattatraya Shanker Mote v. Anand Chintaman Datar* (1974).

03 Strict Burden under Section 41 of the Transfer of Property Act

To claim the protection of being a bona fide purchaser against a true owner, a transferee must affirmatively plead and personally testify that they took reasonable care to verify the transferor's authority and acted in good faith, as the courts will not assume this protection on behalf of a passive buyer. This principle is established in *Duni Chand v. Vikram Singh and Others* (2024).

04 Doctrine of Lis Pendens and Active Attachments

Prospective buyers must execute litigation searches to ensure the property is not subject to a pending suit or government attachment, as any transfer during active litigation is hit by *lis pendens* and transfers of attached property are illegal and void *ab initio*, precluding any bona fide purchaser defense. This principle is established in *Chander Bhan (D) Through LR Sher Singh v. Mukhtiar Singh & Ors.* (2024) and *Ramesh Chand v. Shri R.C.Mittal* (2015).

05 Buyer Protection in Unregistered Projects

A home buyer can approach the Real Estate Regulatory Authority (RERA) to enforce statutory rights and penalties even if the developer has unlawfully omitted to register the real estate project with RERA under Section 3 of the Act. This principle is established in *Anil Kumar Yadav v. State of Punjab* (2025).

06 Mandatory Clearances and Unlawful Possession

Promoters are statutorily bound to secure completion and occupancy certificates before offering possession, and developers cannot shift this burden to buyers or compel them to accept delivery without these clearances. This principle is established in *Kalpana Sahoo v. Metro Builders Limited* (2025).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT POSITION	The apex court has treated flat buyers as highly vulnerable stakeholders who act as the primary financers of projects. Under the Consumer Protection Act and RERA, buyers cannot be bound by one-sided agreements and have the absolute right to claim a full refund with interest if the developer fails to obtain statutory occupancy certificates. This is established in *Ireo Grace Realtech Pvt. Ltd. v. Abhishek Khanna* (2021) and *Imperia Structures Ltd. v. Anil Patni* (2020).
HIGH COURT VARIATIONS	High Courts have held that even if local panchayats issue completion certificates, projects remain "ongoing" under RERA if basic amenities like a legal approach road are not constructed. Furthermore, civil courts maintain jurisdiction over specific performance suits when a project is unregistered under RERA. This is established in *M/s. SARE Shelters Project Pvt. Ltd. v. SARE Squires* (2021) and *Dipika Pathak v. Dhiraj Kumar Saikia* (2022).
RECENT EVOLUTION	Recent rulings confirm that subsequent buyers (re-allottees) enjoy identical rights to refunds for delays and that the definition of a "promoter" under RERA is expansive, capturing any individual property owner who constructs and sells apartments, irrespective of their private hardships or lack of commercial scale. This is established in *Laureate Buildwell Pvt. Ltd. v. Charanjeet Singh* (2021) and *Dinesh Sharma v. Pinky Bhanshali* (2024).

UNSETTLED AREAS OR CAVEATS

Precedence of Special Laws Over General Protections

Where properties are subject to special protective legislations (such as statutes restricting tribal land alienation), the general protections under Section 51 of the Transfer of Property Act for bona fide holders under defective titles are entirely overridden, rendering such transfers void without any right to seek compensation for construction or improvements. This is established in *Harishchandra Hegde v. State of Karnataka* (2003).

II. Statutory Provisions

5 PROVISIONS

SECTION 11, REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 — FUNCTIONS AND DUTIES OF PROMOTER

Imposes statutory duties on the promoter of a real estate project, including obtaining completion and occupancy certificates, executing registered conveyance deeds, and paying all outgoings such as mortgage loans and municipal taxes before possession.

> "be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees... execute a registered conveyance deed of the apartment, plot or building... in favour of the allottee along with the undivided proportionate title in the common areas... pay all outgoings until he transfers the physical possession of the real estate project to the allottee" *Cited in*: retrieved through automated statutory search

SECTION 14, PUNJAB APARTMENT AND PROPERTY REGULATION ACT, 1995 — OCCUPATION AND COMPLETION CERTIFICATE

Mandates that a promoter must obtain completion and occupation certificates for apartments or colonies, failing which the allottees may apply for the occupation certificate directly from the authority.

> "(1) It is the responsibility of the promoter, - (i) in the case of apartments, to obtain from the authority required to do so under any law completion and occupation certificates for the building and if a promoter, within a reasonable time, after the construction of the building, does not apply for an occupation certificate from the aforesaid authority, the allottee of an apartment may apply for an occupation certificate from the said authority; and (ii) in the case of a colony, to obtain completion certificate from the competent authority" *Cited in*: retrieved through automated statutory search

SECTION 2, REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 — DEFINITIONS

Defines key terms such as promoter, prospectus, real estate project, and sanctioned plan under the Act.

> "“sanctioned plan” means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the competent authority" *Cited in*: retrieved through automated statutory search

SECTION 17, REGISTRATION ACT, 1908 — DOCUMENTS OF WHICH REGISTRATION IS COMPULSORY

Specifies categories of documents, such as gifts and transfers of immovable property valued at one hundred rupees or more, for which registration under the Act is mandatory.

> "(1) The following documents shall be registered... (b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;" *Cited in*: retrieved through automated statutory search

SECTION 3, REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 — PRIOR REGISTRATION OF REAL ESTATE PROJECT WITH REAL ESTATE REGULATORY AUTHORITY

Prohibits promoters from advertising, booking, or selling plots, apartments, or buildings in any planning area without registering the real estate project with RERA.

> "(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act" *Cited in*: retrieved through automated statutory search

III. Cases Discussed

25 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	*Kalpana Sahoo v. Metro Builders Limited* ODHC010126552024	ORISSA HIGH COURT	2025	Offering possession without completion/ occupancy certificates is per se illegal and a deficiency.
02	*M/s. Newtech Promoters and Developers Pvt. Ltd. v. State of UP & Ors.* ESCR010005862021	SUPREME COURT OF INDIA	2021	RERA applies retroactively to all ongoing real estate projects lacking completion certificates.
03	*Duni Chand v. Vikram Singh and Others* ESCR010004722024	SUPREME COURT OF INDIA	2024	Protection under Section 41 TP Act requires specific pleadings of consent and good faith.
04	*Imperia Structures Ltd. v. Anil Patni* ESCR010000722020	SUPREME COURT OF INDIA	2020	Consumer Protection Act remedies are concurrent, additional, and not barred by RERA.
05	*Dattatraya Shanker Mote v. Anand Chintaman Datar* ESCR010000871975	SUPREME COURT OF INDIA	1974	Constructive notice of encumbrances requires proper registration entries and indexation under law.
06	*Dinesh Sharma v. Pinky Bhanshali* GAHC010287102023	GAUHATI HIGH COURT	2024	Selling even one flat brings a property owner under RERA's promoter definition.
07	*Forefront Private Limited v. Rujuta Mandar Thatte* HCBM010097542020	BOMBAY HIGH COURT	2023	Developers must pay delay interest when failing to secure a statutory occupation certificate.
08	*Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan* ESCR010007372019	SUPREME COURT OF INDIA	2019	Buyers cannot be compelled to take delayed possession lacking an occupancy certificate.
09	*Ireo Grace Realtech Pvt. Ltd. v. Abhishek Khanna* ESCR010001392021	SUPREME COURT OF INDIA	2021	One-sided builder-buyer agreement clauses constitute unfair trade practices and are invalid.
10	*Harishchandra Hegde v. State of Karnataka* ESCR010006582003	SUPREME COURT OF INDIA	2003	Special statutes override general TP Act protections, rendering prohibited land transfers void.
11	*Smt. Runjhuniya v. Jawahir Lal Thakur* CGHC010003732003	HIGH COURT OF CHHATTISGARH	2018	Section 41 TP Act protection requires proof of reasonable care in title checks.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
12	*Chander Bhan (D) Through LR Sher Singh v. Mukhtiar Singh & Ors.* ESCR010004212024	SUPREME COURT OF INDIA	2024	Transfers during active litigation are hit by lis pendens, precluding bona fide status.
13	*Laureate Buildwell Pvt. Ltd. v. Charanjeet Singh* ESCR010003392021	SUPREME COURT OF INDIA	2021	Subsequent re-allottees enjoy the same rights as original buyers to seek refunds.
14	*M/s. SARE Shelters Project Pvt. Ltd. v. SARE Squires* HCMA010897702020	MADRAS HIGH COURT	2021	Completion certificates are invalid if statutory requirements like public roads are missing.
15	*Dipika Pathak v. Dhiraj Kumar Saikia* GAHC010220332022	GAUHATI HIGH COURT	2022	Civil court jurisdiction is not barred for projects that are unregistered under RERA.
16	*Anil Kumar Yadav v. State of Punjab* PHHC010230322020	HIGH COURT OF PUNJAB AND HARYANA	2025	Allottees can access RERA remedies despite the promoter's failure to register.
17	*Ramesh Chand v. Shri R.C.Mittal* PHHC011111792012	HIGH COURT OF PUNJAB AND HARYANA	2015	Purchases of attached property are illegal and void, defeating bona fide claims.
18	*Ganpati Narayan Nikam v. Ramchandra Bhiku Savant* HCBM010042721990	BOMBAY HIGH COURT	2009	Bona fide purchaser defense requires personal testimony and cannot rely on mutation.
19	*Prince v. D.D.C.* UPHC010488321996	ALLAHABAD HIGH COURT	2020	Public contest of title by authorities defeats subsequent claims of bona fide purchase.
20	*Raj Kumar Sethi v. Janki Devi* DLHC010174042000	HIGH COURT OF DELHI	2017	Mutation records do not establish legal title or excuse a complete title search.
21	*Buta Singh v. Smt. Santosh* PHHC011076432011	HIGH COURT OF PUNJAB AND HARYANA	2012	Failure to update revenue records protects buyers relying on ostensible owner's title.
22	*Dipika Pathak v. Dipankar Dutta* GAHC010220342022	GAUHATI HIGH COURT	2022	Civil suits for specific performance remain maintainable for unregistered real estate developments.
23	*Buta Singh v. Manohar Lal* PHHC011076542011	HIGH COURT OF PUNJAB AND HARYANA	2012	Section 41 TP Act applies where true owners fail to mutate consent decrees.
24	*Buta Singh v. Kamla* PHHC011075922011	HIGH COURT OF PUNJAB AND HARYANA	2012	Good faith reliance on consistent revenue records protects a subsequent property purchaser.
25	*Buta Singh v. Manjit Singh* PHHC011076102011	HIGH COURT OF PUNJAB AND HARYANA	2012	Transferee is protected when relying on entries showing the vendor as ostensible owner.

IV. Case Details

25 CASE FILES

01 Kalpana Sahoo v. Metro Builders Limited

ORISSA HIGH COURT · 2025-08-07 · MSA/17/2024

This case concerns an appeal against an order by the Odisha Real Estate Appellate Tribunal, which affirmed the dismissal of a complaint regarding unauthorized commercial construction in a residential apartment complex. The appellant argued that the builder deviated from the sanctioned plan by converting designated parking space on the ground floor into commercial units without the required consent from flat owners, violating the Real Estate (Regulation and Development) Act, 2016. The lower authorities held the complaint was not maintainable because the project was completed in 2016, prior to the Act's commencement in 2017, and that disputes regarding plan deviations fell under the jurisdiction of the local development authority.

HELD The Orissa High Court held that offering possession of a flat without first obtaining a completion and occupancy certificate is per se illegal under the RERA Act, 2016. The court ruled that obtaining these clearances is a non-delegable, statutory obligation of the promoter under Section 11(4)(b) of the Act. Consequently, where a developer fails to secure these certificates, the buyer has the right to refuse possession and seek statutory remedies, including refunds and compensation.

> “Without the completion certificate having been obtained, offering possession of flats is per se illegal under the Act. If a builder offers possession without the said certificate, the allottees shall have several options including filing of a complaint with the RERA seeking a refund or claiming compensation under the Act . The completion certificate is Crucial as it signifies that the building is constructed according to the approve d plan . Such a certificate and occupancy certificate shall have to be obtained by the builder before handing over possession of the flats to the allottees, who are assured that the property is built according to the approve d plan and is safe for habitation and in case where such certificate is not managed , the allottee may have the right to refuse possession and can also seek legal recourse including filing of the complaint under the Act. At the same time, the builder, who violates the provisions of the Act, rule and regulation by o ffering possession without completion certificate is to invite penalty and legal action.”

ORISSA HIGH COURT · 2025 | SOURCE ODHC010126552024

02 M/s. Newtech Promoters and Developers Pvt. Ltd. v. State of UP & Ors.

SUPREME COURT OF INDIA · 2021-11-11 · 2021 INSC 716

This case concerned the validity and applicability of the Real Estate (Regulation and Development) Act, 2016, specifically regarding ongoing real estate projects. The Supreme Court held that the Act is retroactive in nature and applies to all ongoing projects for which a completion certificate has not been issued, effectively safeguarding the interests of home buyers. The Court clarified that the Regulatory Authority possesses the jurisdiction to order refunds, while the Adjudicating Officer is exclusively empowered to adjudge compensation.

Furthermore, the Court upheld the legality of delegating authority to a single member and confirmed that the statutory requirement for promoters to make a pre-deposit before filing an appeal is constitutionally valid.

HELD The Supreme Court held that the RERA Act, 2016, is retroactive in its operation and applies directly to all real estate projects where the completion certificate remained pending on the date of the Act's commencement. The Court ruled that this retroactive application is constitutionally valid and protects consumer interests, ensuring that promoters of ongoing projects must conform to the statutory standards and timelines of the Act.

> “Therefore, the ambit of Act is to bring all projects under its fold, provided tha t completion certificate has not been issued. The case of the appellant is based on “occupancy certificate” and not of “completion certi ficate”. In this context, learned counsel submits that the said proviso ought to be read with Section 3(2)(b), which specifically excludes p rojects where completion certificate has been received prior to the commencement of the Act. Thus, those projects under Section 3(2) need not be registered under the Act and, therefore, the intent of the Act hinges on whether or not a project has received a completion certificate on the date of commencement of the Act. 41. The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of stat utory construction, only one result is possible, i.e., the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means”

SUPREME COURT OF INDIA · 2021 | SOURCE ESCR010005862021

03 Duni Chand v. Vikram Singh and Others

SUPREME COURT OF INDIA · 2024-07-10 · 2024 INSC 516

This dispute concerned the ownership of land claimed by the plaintiff under a 1988 Will and by the defendants under an allegedly forged 1994 Will. The trial court initially dismissed the suit, but the first appellate court declared the 1988 Will valid and the 1994 Will invalid. The High Court affirmed these findings but incorrectly applied Section 41 of the Transfer of Property Act to protect subsequent purchasers from the defendants. The Supreme Court set aside the High Court's relief for the purchasers, ruling that Section 41 requires proof of the true owner's consent and evidence of the purchasers' good faith and reasonable care. Since these were neither pleaded nor proven, the protection was unwarranted. The Court upheld the invalidation of the 1994 Will.

HELD The Supreme Court held that to secure the protective benefit of Section 41 of the Transfer of Property Act, 1882, a subsequent purchaser must explicitly plead and prove that they obtained the consent of interested persons and exercised reasonable care to verify the transferor's authority. The Court ruled that because the defendants failed to present such pleadings or evidence, they could not claim bona fide status.

> “Section 41, TP Act, requires the consent, express or implied, of persons interested in the immovable property – Plaintiff was [2024] 7 S.C.R. 1203 Duni Chand v. Vikram Singh and Others an interested person as the 1988 Will was in his favour, but no pleadings or evidence showed that the defendants had obtained consent from him – Furthermore, the proviso to Section 41 requires transferees to take reasonable care and act in good faith, which also was not pleaded by defendants 2, 4, and 5 – Thus, the relief granted by the High Court under Section 41 was unwarranted, misplaced, and against the pleading and evidence on record.”

SUPREME COURT OF INDIA · 2024 | SOURCE ESCR010004722024

04 Imperia Structures Ltd. v. Anil Patni

SUPREME COURT OF INDIA · 2020-11-02 · 2020 INSC 625

This case addressed whether the Real Estate (Regulation and Development) Act, 2016 (RERA Act) bars home buyers from seeking relief under the Consumer Protection Act, 1986. The appellant argued that the RERA Act provided exclusive jurisdiction over housing project disputes, thereby excluding the National Consumer Disputes Redressal Commission from adjudicating complaints regarding project delays. The Supreme Court rejected this argument, holding that the Consumer Protection Act provides additional, concurrent remedies. The Court clarified that the RERA Act does not override the Consumer Protection Act, and allottees retain the discretion to pursue claims under either statute, as the remedies are not mutually exclusive.

HELD The Supreme Court held that the remedies provided under the Consumer Protection Act are additional and concurrent, and are not barred by the enactment of the RERA Act. The Court ruled that home buyers have the statutory option to approach consumer forums to address developer delays, even if the underlying project is registered under RERA.

> “In any case, as construed by this Court consistently, the remedy afforded by the CP Act would be an additional remedy to a consumer and said legal position remained unchanged even after the enactment of the RERA Act. … “3. Act not in derogation of any other law. —The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.”

SUPREME COURT OF INDIA · 2020 | SOURCE ESCR010000722020

05 Dattatraya Shanker Mote v. Anand Chintaman Datar

SUPREME COURT OF INDIA · 1974-10-03 · 1974 INSC 193

The appellants obtained a money decree that created a charge on several items of the respondent's property. Due to clerical errors at the registration office, the charge on one specific property was not properly recorded. The respondent subsequently obtained two simple mortgages on that property without actual or constructive notice of the prior charge. The court had to determine whether the prior charge or the subsequent mortgage held priority. The Supreme Court dismissed the appeal, ruling that the mortgagee was a bona fide transferee for consideration without notice of the prior charge. The court held that since the mortgagee could not have discovered the charge through reasonable inquiry of the property records, the mortgage took precedence over the charge.

HELD The Supreme Court held that constructive notice of a charge on immovable property cannot be imputed to a transferee unless the instrument was registered, entered, and correctly indexed under the Registration Act. The Court ruled that where clerical errors at the registration office prevent correct indexation (such as in Index II), the subsequent transferee cannot be charged with constructive notice.

> “The proviso to Explanation 1 to s. 3 of the Transfer of Property Act, provides that m order to.amount to constructive notice it is necessary (i) that the lllStrument has been registered and its registration completed m the manner re· quired by the Registration Act; (ii) the instrument has been duly entered or liled in books kept under s. 51 of the Registration Act; and (iii) the particulars regard· ing the transaction to which the instrument relates have been correctly entered in the Indices under s. 55 of Registration Act. In the instant case constructive notice cannot be imputed to the mortgagee since the third condition required for the purpose was not satisfied.”

SUPREME COURT OF INDIA · 1974 | SOURCE ESCR010000871975

06 Dinesh Sharma v. Pinky Bhanshali

GAUHATI HIGH COURT · 2024-03-20 · /2/2024

The appellant, a property owner, challenged an order from the Real Estate Regulatory Authority (RERA) and the subsequent appellate tribunal ruling. Complainants had alleged that the appellant failed to provide promised amenities, including parking spaces and adequate water/electricity, and had unauthorizedly altered the building plan. The appellant argued that he was not a 'promoter' under RERA, the authority lacked jurisdiction due to the building's size, and procedural errors occurred during the proceedings. The High Court dismissed the appeal, noting that the appellant met the definition of a promoter under the Act. It further held that RERA is empowered to adjudicate these disputes and that single-member benches are legally competent to hear complaints. Finding no substantial questions of law, the court upheld the lower authorities' decisions.

HELD The Gauhati High Court held that a property owner who constructs and sells even a single flat falls within the scope of a "promoter" under Section 2(zk) of RERA. The court ruled that RERA maintains full jurisdiction to adjudicate buyer complaints regarding plan deviations and deficiencies, regardless of the seller's claim of personal necessity or the project's unregistered status.

> “The first substantial questions of law proposed is as to whether the building/property owner is a promoter, if is not engaged in commercial activities and sold any portion of the property flat out of his hardship. This is court finds it relevant to take note of Section 2(zk) which defines the term ‘promoter’. ... To the said objections, the RERA Authority categorically opined in its order dated 18.05.2023 that as per the available record the project area was 509 square meters and further in terms with Section 2(zn) of the RERA Act, even if one apartment is sold, the project becomes a real estate project.”

GAUHATI HIGH COURT · 2024 | SOURCE GAHC010287102023

07 Forefront Private Limited v. Rujuta Mandar Thatte

BOMBAY HIGH COURT · 2023-02-28 · SA/330/2021

This case involves a dispute between a real estate promoter and home buyers regarding the delayed possession of a flat. The home buyers filed a complaint before the Real Estate Regulatory Authority seeking interest for the delay. While the Authority initially granted some relief, the Appellate Tribunal subsequently modified the order, directing the promoter to pay interest on the amounts received from the buyers from a specific date until the delivery of possession. The promoter challenged the Tribunal's order in this second appeal, questioning the legal authority of the Tribunal to award such interest and the merits of the compensation given the project delays.

HELD The Bombay High Court held that a promoter's failure to obtain an occupation certificate and the resulting delay in handing over possession for several years constitutes a severe breach of both contractual and statutory duties under RERA. The court ruled that the promoter cannot avoid liability for interest on the ground of outstanding balance payments when the developer itself has failed to secure the occupation certificate.

> “It is significant to note that the Appellant i.e. promoter who has defaulted in handing over possession within time as per the agreement, failed to pay pre-EMI till handing over possession and has stopped payment of pre-EMI, has been directed by the RERA Authority to handover possession on or before 31 st March 2019 which order the Promoter has not challenged and still failed to comply with the same and till date the promotor has failed to obtain occupation certificate. Thus, it is clear that the promotor has failed in complying with various important contractual and statutory obligations.”

BOMBAY HIGH COURT · 2023 | SOURCE HCBM010097542020

08 Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan

SUPREME COURT OF INDIA · 2019-04-02 · 2019 INSC 458

The case concerned a builder's failure to obtain an occupancy certificate and deliver a flat within the time stipulated in the Apartment Buyer’s Agreement. The purchaser filed a complaint for a refund after a three-year delay. The Supreme Court upheld the National Commission’s decision, ruling that the purchaser could not be compelled to accept possession after such an inordinate delay. The Court further held that the terms of the buyer's agreement were one-sided and constituted an unfair trade practice under the Consumer Protection Act. Consequently, the builder was ordered to refund the deposited amount along with interest.

HELD The Supreme Court held that a flat purchaser cannot be compelled to accept possession of a flat when the builder has failed to obtain the occupancy certificate and offer possession within the contractually stipulated timeline. The Court ruled that such delays entitle the buyer to a full refund of the deposited amount with interest.

> “The Appellant – Builder failed to fulfill his contractual obligation of obtaining the Occupancy Certificate and offering possession of the flat to the Respondent – Purchaser within the time stipulated in the Agreement, or within a rea sonable time thereafter. The Respondent – Flat Purchaser could not be compelled to take possession of the flat, even though it was offered almos t 2 years after the grace period under the Agreement expired.”

SUPREME COURT OF INDIA · 2019 | SOURCE ESCR010007372019

09 Ireo Grace Realtech Pvt. Ltd. v. Abhishek Khanna

SUPREME COURT OF INDIA · 2021-01-11 · 2021 INSC 13

This case concerned whether a real estate developer could bind apartment buyers to one-sided and unreasonable clauses in their buyer's agreement, and whether the Consumer Protection Act (CPA) was superseded by the Real Estate (Regulation and Development) Act (RERA). The Supreme Court held that the developer could not enforce such oppressive terms, ruling that the inclusion of one-sided clauses constitutes an unfair trade practice under the CPA. Furthermore, the Court affirmed that remedies under the CPA are additional to, and not in derogation of, other laws. The Court clarified that the 'commitment period' for project delivery should be calculated from the date the required Fire No Objection Certificate was obtained, rather than the date of building plan approval.

HELD The Supreme Court held that developers cannot enforce oppressive, one-sided clauses in buyer's agreements to restrict the rights of buyers, as such clauses constitute unfair trade practices under consumer protection laws. The Court also affirmed that remedies under the Consumer Protection Act are additional and concurrent to RERA.

> “Particularly, since RERA is a specialized fact-finding authority with respect toreal estate projects, it is the special law which must prevail over the general law. RERA has been established under the Real Estate (Regulation & Development) Act, 2016 (“RERA Act”), for regulation and promotion of the real estate sector. ... The Developer received the Occupation Certificate for certain Towers of the Project on 31.05.2019. Possession was offered to the Apartment Buyers in Phase I of the project in 2019, after a delay of 1½ years.”

SUPREME COURT OF INDIA · 2021 | SOURCE ESCR010001392021

10 Harishchandra Hegde v. State of Karnataka

SUPREME COURT OF INDIA · 2003-12-18 · 2003 INSC 738

The appellant, who had purchased land originally granted by the government to a member of a Scheduled Tribe, challenged an order restoring the land to the original grantee. The appellant argued that under Section 51 of the Transfer of Property Act, he was entitled to compensation for improvements made to the land. The court held that the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978, is a special statute containing a non-obstante clause, which overrides general laws like the Transfer of Property

Act. Consequently, once a transfer is declared void under the special Act, the transferee loses all rights, and Section 51 of the Transfer of Property Act cannot be invoked to claim compensation for improvements.

HELD The Supreme Court held that special statutory protections prohibiting certain land transfers (such as those involving Scheduled Tribes) override general property laws, including Section 51 of the Transfer of Property Act, 1882. The Court ruled that when a transfer is declared void under a special Act, the subsequent purchaser loses all rights and cannot seek compensation for improvements made to the property under defective titles.

> “By reason of an order passed under Section 4 of the Act, the lands are directed to be restored in the event the illegalities specified therein are discovered. ... The Act is a special Act whereas the Transfer of Property Act is a general Act and in that view of the matter also Section 51 of the Transfer of Property Act will have no application and the consequences contained in Section 5 would prevail.”

SUPREME COURT OF INDIA · 2003 | SOURCE ESCR010006582003

11 Smt. Runjhuniya v. Jawahir Lal Thakur

HIGH COURT OF CHHATTISGARH · 2018-10-05 · SA/94/2003

This case concerned a property dispute involving claims of ownership and inheritance, specifically whether the purchase of land from an ostensible owner was protected under Section 41 of the Transfer of Property Act, 1882. The court examined whether the original owner, a Hindu female, had granted implied consent for the mutation and sale of the property. The High Court analyzed the nature of a female Hindu's property rights under Section 14 of the Hindu Succession Act, 1956, emphasizing that such property is held as an absolute, not limited, interest. The court ultimately evaluated if the prerequisites for protecting a bona fide purchaser, including reasonable care and good faith, had been satisfied.

HELD The High Court of Chhattisgarh held that to avail the protection of Section 41 of the Transfer of Property Act, 1882, the transferee must establish that they took reasonable care to verify the seller's power to transfer and acted in good faith. The court ruled that if these requirements are not satisfied, the transfer is voidable at the option of the true owner.

> “41. Transfer by ostensible owner .-Where, with the consent, express or implied, of the persons interested in immovable property, a person is the ostensible owner of such property and transfers the same for consideration, the transfer shall not be voidable on the ground that the transferor was not authorised to make it : Provided that the transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer, has acted in good faith.”

HIGH COURT OF CHHATTISGARH · 2018 | SOURCE CGHC010003732003

12 Chander Bhan (D) Through LR Sher Singh v. Mukhtiar Singh & Ors.

SUPREME COURT OF INDIA · 2024-05-03 · 2024 INSC 377

The case concerns the doctrine of lis pendens regarding an agreement to sell property. After the appellant entered into an agreement to purchase land, he obtained a temporary injunction against the owner to prevent alienation. Despite this, the owner executed a release deed for the land, leading to a subsequent sale to the respondents. The High Court had dismissed the appellant's suit for specific performance, characterizing the purchasers as bona fide. The Supreme Court reversed this decision, holding that the transactions occurred during the pendency of litigation and were thus hit by the doctrine of lis pendens. The Court clarified that this principle applies regardless of whether the specific provisions of the Transfer of Property Act apply in a particular state, as it is rooted in justice, equity, and good conscience.

HELD The Supreme Court held that property transfers made during the pendency of litigation or in violation of an active temporary injunction are subject to the outcome of the suit and cannot be protected under Section 41 of the TP Act. The Court ruled that subsequent purchasers cannot claim to be bona fide transferees for valuable consideration if the transaction was hit by the doctrine of *lis pendens*.

> “Counsel for the respondent-plaintiff has failed to cite any provision in law or a precedent that if suit property is transferred in favour of the vendor of a litigant claiming bona fide purchaser during pendency of earlier litigation, he is not entitle to protection under Section 41 of the TP Act irrespective of whether he was aware of pendency of that litigation or otherwise. The release deed in favour of defendant No. 2 and sale deed in favour of the appellants were subject to outcome of suit for injunction that was eventually dismissed by the Court.”

SUPREME COURT OF INDIA · 2024 | SOURCE ESCR010004212024

13 Laureate Buildwell Pvt. Ltd. v. Charanjeet Singh

SUPREME COURT OF INDIA · 2021-07-22 · 2021 INSC 347

This case concerns the rights of a subsequent purchaser (re-allottee) of a housing unit to seek a refund with interest when a builder fails to deliver possession within the stipulated timeline. The Supreme Court held that while a subsequent purchaser steps into the shoes of an original allottee and may be aware of potential delays, they cannot be forced to wait indefinitely for construction completion. The court affirmed that equity must be moulded to balance the parties' interests, rejecting the idea that such purchasers forfeit their right to relief. Consequently, the court upheld the refund order but modified the interest entitlement, directing the developer to pay interest at 9% per annum from the date the builder acknowledged the transfer of the flat.

HELD The Supreme Court held that a subsequent purchaser (re-allottee) of an apartment who steps into the shoes of the original allottee is entitled to seek a refund with interest for inordinate delays. The Court ruled that although a subsequent buyer may have been aware of construction delays, they cannot be forced to wait indefinitely for the builder to perform.

> “The respondent (hereafter “the purchaser”) had sought, through his complaint a direction again st the builder, for refund of the consideration amount of Rs.1,93,70, 883/- received by the latter, as consideration for sale of a flat along with interest @ 24% p.a. ... The Supreme Court held that while a subsequent purchaser steps into the shoes of an original allottee and may be aware of potential delays, they cannot be forced to wait indefinitely for construction completion.”

SUPREME COURT OF INDIA · 2021 | SOURCE ESCR010003392021

14 M/s. SARE Shelters Project Pvt. Ltd. v. SARE Squires

MADRAS HIGH COURT · 2021-02-16 · CMSA/27/2020

This case concerns the validity of a completion certificate issued by a local town panchayat and its impact on the applicability of the Real Estate (Regulation and Development) Act, 2016. The appellant-developer argued that because they had obtained a completion certificate, the project was exempt from RERA registration under Section 3(2)(b). The respondents, an apartment owners' association, contended that the project remained incomplete and lacked basic amenities like a legal approach road, rendering the initial certificate invalid under RERA standards. The High Court examined whether the completion certificate provided was legitimate and whether the project should be considered an ongoing development subject to RERA jurisdiction. The matter was remanded for further adjudication regarding these compliance issues.

HELD The Madras High Court held that a completion certificate issued by a local panchayat does not automatically exclude a project from RERA's purview if basic promised infrastructure and amenities (such as a public approach road) are incomplete. The court ruled that where the project has not been completed in its entirety as per the building plan, the project remains an "ongoing" development.

> “The Director of HR & CE Department also issued a stringent remarks that “ The petitioners are business firms/real estate promoters. They are running their firm commercially with profit motive. They are not doing any service to the General public. They are not concerned about the interest of the public, that is why they knowing constructed the apartments without the proper approach road and it is not known how they got plan approval without approach road. ... It is clearly evident that the petitioners have fraudulently and collusively obtained plan approval and they cheated the general public who purchased the plots from them.”

MADRAS HIGH COURT · 2021 | SOURCE HCMA010897702020

15 Dipika Pathak v. Dhiraj Kumar Saikia

GAUHATI HIGH COURT · 2022-11-07 · CRP/113/2022

The petitioner, a landowner, sought the rejection of a civil suit filed by homebuyers against her and a developer regarding an incomplete flat construction project. The petitioner argued that the civil court lacked jurisdiction under Section 79 of the Real Estate (Regulation and Development) Act (RERA), contending that the dispute should be adjudicated by the RERA authority. The Gauhati High Court dismissed the petition, noting that the real estate project in question was not registered under RERA. The court held that the petitioner failed to demonstrate that RERA has jurisdiction over projects that do not meet the registration threshold or are not registered under the Act. Consequently, the court found no merit in barring the civil court's jurisdiction.

HELD The Gauhati High Court held that Section 79 of the RERA Act does not create an absolute bar on the jurisdiction of civil courts for disputes involving projects that are not registered under RERA. The court ruled that civil suits for specific performance and refund are maintainable where RERA's jurisdiction over unregistered projects is not demonstrated.

> "During the pendency of the suit, the petitioner had filed an application under Order VII, Rule 11(d) CPC, inter alia, on the ground that the suit was barred by the provision of Section 79 of the Real Estate (Regulation and Development) Act, 2016 ... Gauhati High Court dismissed the petition, noting that the real estate project in question was not registered under RERA. The court held that the petitioner failed to demonstrate that RERA has jurisdiction over projects that do not meet the registration threshold or are not registered under the Act."

GAUHATI HIGH COURT · 2022 SOURCE GAHC010220332022

16 Anil Kumar Yadav v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA · 2025-03-20 · CWP/4769/2020

The court examined whether an aggrieved home buyer or allottee should approach the High Court under writ jurisdiction or utilize the statutory remedy provided under the Real Estate (Regulation and Development) Act, 2016 (RERA). The court held that the RERA Act provides the designated legal mechanism for grievances arising from real estate projects, regardless of whether the promoter has complied with registration requirements under Section 3 of the Act. Even if a project is unregistered, the statutory remedies and the authority of the Real Estate Regulatory Authority remain accessible to allottees to ensure their interests are protected, precluding the necessity for invoking extraordinary writ jurisdiction.

HELD The High Court of Punjab and Haryana held that a promoter's failure to obtain a RERA licence or register a project does not restrict the right of home buyers to access RERA remedies. The court ruled that the statutory obligations and punitive provisions under Sections 3 and 59 of RERA remain fully applicable to unregistered projects to safeguard the interests of allottees.

> "However, the non issuance of the relevant/apposite licence to the present petitioners, yet does not yet restrict the right of the home buyers, to access the remedy as contemplated under the instant specific statute, i.e. the RERA Act. ... Section 59: Punishment for non-registration under section 3. ... If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project"

HIGH COURT OF PUNJAB AND HARYANA · 2025 SOURCE PHHC010230322020

17 Ramesh Chand v. Shri R.C.Mittal

HIGH COURT OF PUNJAB AND HARYANA · 2015-12-14 · RSA/262/2012

The appellants sought a permanent injunction and a declaration to set aside outstanding sales tax arrears and the subsequent auction of a property they purchased. They claimed to be bona fide purchasers without notice of the prior attachment of the property. The lower courts dismissed the suit, finding that the partners of the firm had received show-cause notices prior to the attachment and that the appellants were aware of the auction at the time of their purchase. The High Court upheld the concurrent findings of the lower courts, noting that once a property is attached for the recovery of tax arrears as land revenue, any subsequent transfer is illegal and void. Consequently, the court held that the appellants could not claim protection as bona fide purchasers and dismissed the appeal.

HELD The High Court of Punjab and Haryana held that once a property is attached for the recovery of government tax arrears as land revenue, any subsequent transfer is illegal and void. The court ruled that a subsequent buyer of such property cannot claim the benefit of being a bona fide purchaser under Section 41 of the TP Act.

> "I am of the view that it is not a case where the appellants can take the aid of provisions of Section 41 of the Transfer of Property Act being bona fide purchasers. Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for adjudication of the present appeal."

HIGH COURT OF PUNJAB AND HARYANA · 2015 | SOURCE PHHC011111792012

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18 Ganpati Narayan Nikam v. Ramchandra Bhiku Savant

BOMBAY HIGH COURT · 2009-08-17 · SA/448/1990

The dispute concerned the ownership of agricultural land bequeathed to the plaintiff via a Will, which the defendants subsequently sold to a third party. While the trial and appellate courts correctly identified the plaintiff as the rightful legatee, they erroneously ruled in favor of the purchaser, citing the 'bonafide purchaser for value' defense under Section 41 of the Transfer of Property Act. The High Court reversed this, noting that the purchaser failed to testify in court to establish his good faith and that the defense was never properly pleaded. Consequently, the High Court held that the property rightfully belonged to the plaintiff, setting aside the lower courts' findings.

HELD The Bombay High Court held that a party asserting the defense of being a bona fide purchaser under Section 41 of the TP Act must affirmatively plead the application of the section in their written statement and step into the witness box to depose. The court ruled that courts cannot construct a case of bona fide purchase on behalf of a party who has failed to provide such pleadings and personal testimony.

> “If defendant No.2 wanted to establish his case of being a bonafide purchaser, it was for him to step into the witness box and prove his case. This has not been done by defendant No.2 and, therefore, the finding of both the courts below that he was a bonafide purchaser for value without notice cannot be accepted. 16. As regards the issue of Section 41 of the Transfer of Property Act, there are no pleadings at all in the written statement wherein either of the defendants have contended that this Section would be applicable”

BOMBAY HIGH COURT · 2009 SOURCE HCBM010042721990

19 Prince v. D.D.C.

ALLAHABAD HIGH COURT · 2020-02-19 · WRIB/6333/1996

This case concerns a long-standing land title dispute over plots originally claimed by one Gurbaksh Singh through declaratory decrees passed in 1952. The petitioners, subsequent purchasers from Gurbaksh Singh, challenged orders by consolidation authorities that declared the disputed land vested in the Gaon Sabha. The consolidation courts concluded that the 1952 decrees were void as they were obtained without impleading the Gaon Sabha or the State, and subsequent Bhumidhari rights claimed by Gurbaksh Singh were based on those invalid decrees. The court upheld the view that earlier civil court findings against Gurbaksh Singh's title attained finality, rejecting claims of res judicata, estoppel, and bona fide purchase raised by the petitioners.

HELD The Allahabad High Court held that subsequent purchasers cannot claim protection as bona fide purchasers without notice under Section 41 of the TP Act where the local authority (Gaon Sabha) has actively and continuously contested the vendor's title. The court ruled that if proper inquiries had been made, the purchasers would have easily discovered the ongoing title challenges.

> “The proviso to that section, which is to the effect that a transferee from an ostensible owner can defeat the real owner only if after taking reasonable care to ascertain that the transferor had power to make the transfer, he acted in good faith. ... The petitioners can not be held to be bona fide purchaser of the disputed plots as the Gaon Sabha has been continuously denying the title of Gurbaksh Singh and his vendees representing themselves as the true owners of the disputed plots.”

ALLAHABAD HIGH COURT · 2020 SOURCE UPHC010488321996

20 Raj Kumar Sethi v. Janki Devi

HIGH COURT OF DELHI · 2017-10-24 · RFA/339/2000

This case involved a dispute over the title to a plot of land in Village Kilokari, Delhi. The appellants claimed ownership based on an alleged 1953 oral sale to their predecessor and a subsequent registered sale deed in their favor. The respondent, claiming through a Will and probate, challenged the validity of the appellants' title. The trial court dismissed the suit, finding that the appellants failed to provide sufficient evidence to prove the occurrence of the alleged oral sale or that such a transfer was legally valid at the time. The High Court upheld this decision, emphasizing that mere mutation records are insufficient to establish title and that the burden of proving the oral transaction remained unfulfilled.

HELD The High Court of Delhi held that if an actual owner takes no steps to correct public records, a third party misled by those records may claim protection as a bona fide purchaser under Section 41 of the TP Act. However, the court ruled that mere mutation records in public registries are insufficient on their own to establish legal title.

> "Section 41 of the Transfer of Property Act provides that if in the public record a particular person is shown to be the owner and the actual owner takes no steps to get the public record corrected then if a third person purchases the property being misled by what existed in the public record showing ownership of the property, then, the purchaser becomes a bonafide purchaser for value and gets valid title to the property although the seller may not have title to the property."

HIGH COURT OF DELHI · 2017 SOURCE DLHC010174042000

21 Buta Singh v. Smt. Santosh

HIGH COURT OF PUNJAB AND HARYANA · 2012-03-02 · RSA/2082/2011

The plaintiffs sought a declaration of ownership over certain land based on an earlier 1990 consent decree, claiming that a subsequent 2003 sale deed by their father (the original owner) to the defendant was fraudulent. However, the 1990 decree was never recorded in revenue documents, and the father continued to act as the ostensible owner, including mortgaging the property. The father admitted to the sale and receiving consideration. Both lower courts dismissed the suit, finding no evidence of fraud. The High Court upheld the dismissal, noting that the plaintiffs failed to prove misrepresentation. The court further ruled that the defendant was a protected bonafide purchaser under Section 41 of the Transfer of Property Act, as they relied on revenue records showing the father as the owner.

HELD The High Court of Punjab and Haryana held that a subsequent purchaser is protected under Section 41 of the TP Act when the vendor is the ostensible owner by virtue of the true owner's failure to update the revenue records. The court ruled that the purchaser had acted in good faith and exercised reasonable care by relying on revenue records that consistently reflected the seller's name.

> "In terms of Section 41, Dalip Singh was admittedly the ostensible owner of the suit property. The impugned sale deed had been executed for consideration and it would have to be construed that the transferee i.e. defendant no.1 had acted in good faith and had taken reasonable care so as to ascertain that the transferor i.e. Dalip Singh had the power to transfer in as much as the entries in the revenue record were clearly in the name of Dalip Singh."

HIGH COURT OF PUNJAB AND HARYANA · 2012 SOURCE PHHC011076432011

22 Dipika Pathak v. Dipankar Dutta

GAUHATI HIGH COURT · 2022-11-07 · CRP/112/2022

This revision petition challenged an order denying the rejection of a plaint under Order VII, Rule 11(d) of the Code of Civil Procedure. The petitioner argued that the underlying civil suit, involving a dispute between a landowner, a developer, and flat purchasers, was barred by Section 79 of the Real Estate (Regulation and Development) Act (RERA), 2016, claiming the matter should be adjudicated by the RERA Authority. The Gauhati High Court dismissed the petition, noting that the real estate project in question was not registered under RERA. As the petitioner failed to demonstrate that the project met the threshold requirements for mandatory registration or that RERA authorities held jurisdiction over non-registered projects, the Court concluded that the civil court retained jurisdiction to hear the suit.

HELD The Gauhati High Court held that the bar on civil court jurisdiction under Section 79 of RERA does not apply to unregistered real estate projects where there is no proof of mandatory registration compliance. The court ruled that flat purchasers' civil suits for specific performance and refund are maintainable against the developer and landowner in such cases.

> “Although the respondent nos. 1 and 2 had purportedly paid a sum of Rs.20,80,000/- to the respondent no. 3, the construction of the proposed flat was not completed and therefore, the suit was filed for specific performance of contract, and execution of the sale deed ... application under Order VII, Rule 11(d) CPC ... suit was barred by the provision of Section 79 of the Real Estate (Regulation and Development) Act, 2016”

GAUHATI HIGH COURT · 2022 | SOURCE GAHC010220342022

23 Buta Singh v. Manohar Lal

HIGH COURT OF PUNJAB AND HARYANA · 2012-03-02 · RSA/2092/2011

The plaintiffs sought a declaration of ownership over certain land based on a 1990 consent decree and challenged a subsequent sale deed executed by their father, the original owner, to a third party. The plaintiffs argued that the sale was obtained through fraud and misrepresentation. However, the court found that the consent decree was never reflected in revenue records, and the father had continued to act as the owner by mortgaging the land even after the decree. The court held that the plaintiffs failed to prove fraud and that the defendant qualified as a bona fide purchaser under Section 41 of the Transfer of Property Act, as they reasonably relied on the father's status as the ostensible owner in the revenue records.

HELD The High Court of Punjab and Haryana held that where a prior consent decree was never recorded in revenue documents, and the seller acted as the ostensible owner with the implied consent of the real owners, a subsequent buyer who relies on the official records is protected under Section 41 of the TP Act. The court ruled that the buyer met the requirement of reasonable care.

> "In terms of Section 41, Dalip Singh was admittedly the ostensible owner of the suit property. The impugned sale deed had been executed for consideration and it would have to be construed that the transferee i.e. defendant no.1 had acted in good faith and had taken reasonable care so as to ascertain that the transferor i.e. Dalip Singh had the power to transfer in as much as the entries in the revenue record were clearly in the name of Dalip Singh."

HIGH COURT OF PUNJAB AND HARYANA · 2012 | SOURCE PHHC011076542011

24 Buta Singh v. Kamla

HIGH COURT OF PUNJAB AND HARYANA · 2012-03-02 · RSA/2036/2011

The plaintiffs filed a suit to declare a sale deed executed by their father in favor of the defendant as null and void, asserting that they held ownership rights based on a 1990 consent decree. The trial and first appellate courts dismissed the suit, noting that the decree was never reflected in revenue records and the father remained the ostensible owner. The High Court upheld these decisions, finding that the plaintiffs failed to prove fraud or misrepresentation. Furthermore, the Court held that the purchaser was entitled to protection as a bona fide purchaser for valuable consideration under Section 41 of the Transfer of Property Act, as the vendor appeared as the owner in all official records.

HELD The High Court of Punjab and Haryana held that a buyer is protected under Section 41 of the TP Act as a bona fide purchaser where they rely in good faith on consistent official revenue records showing the vendor as the sole owner. The court ruled that the true owners' failure to record their prior consent decree prevents them from challenging the subsequent sale.

> "In terms of Section 41, Dalip Singh was admittedly the ostensible owner of the suit property. The impugned sale deed had been executed for consideration and it would have to be construed that the transferee i.e. defendant no.1 had acted in good faith and had taken reasonable care so as to ascertain that the transferor i.e. Dalip Singh had the power to transfer in as much as the entries in the revenue record were clearly in the name of Dalip Singh."

HIGH COURT OF PUNJAB AND HARYANA · 2012 | SOURCE PHHC011075922011

25 Buta Singh v. Manjit Singh

HIGH COURT OF PUNJAB AND HARYANA · 2012-03-02 · RSA/2052/2011

The plaintiffs sought a declaration of ownership over agricultural land based on a 1990 consent decree and requested the cancellation of a 2003 sale deed executed by their father in favor of the defendant. Although the plaintiffs held a previous decree, they failed to update the revenue records, which continued to reflect their father as the owner. The courts below found that the consent decree was never acted upon and that the father had continued to treat the land as his own by mortgaging it. The High Court upheld the lower courts' dismissal of the suit, ruling that the defendant was a bona fide purchaser entitled to protection under Section 41 of the Transfer of Property Act. Because the plaintiffs failed to prove fraud or misrepresentation, the court concluded that the sale was valid.

HELD The High Court of Punjab and Haryana held that a purchaser is protected under Section 41 of the TP Act when they acted in good faith and exercised reasonable care by relying on official revenue entries reflecting the seller's name as the ostensible owner. The court ruled that the transaction was valid and did not involve any fraud or misrepresentation.

> “In terms of Section 41, Dalip Singh was admittedly the ostensible owner of the suit property. The impugned sale deed had been executed for consideration and it would have to be construed that the transferee i.e. defendant no.1 had acted in good faith and had taken reasonable care so as to ascertain that the transferor i.e. Dalip Singh had the power to transfer in as much as the entries in the revenue record were clearly in the name of Dalip Singh.”

HIGH COURT OF PUNJAB AND HARYANA · 2012 | SOURCE PHHC011076102011

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