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Case Analysis - Mohori Bibee v. Dharmodas Ghose

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ABSTRACT

Is the agreement or contract made into by a minor void or voidable in this case? The issue of whether a minor who lacks legal capacity enters into a contract and what scenarios and circumstances might result also comes into dispute. A person is a minor, according to Section 3 of the India Majority Act of 1875, if they have reached the age of 18, with the exception of situations in which a court has assigned a guardian, in which case they are said to have reached majority at the age of 21. Although everyone is capable of entering into a contract under the Indian Contract Act of 1872, Section 11, there are three exceptions: minors, those who are mentally ill, and people who are prohibited by law.

Keywords: contract, guardian, Indian Contract Act, minor, voidable.

I. PARTIES RELATED TO THE CASE

1. Dharmodas Ghose –Plaintiff, minor
2. Mohori Bibee – Wife of Brahma Dutt and his legal representative of the case
3. Brahma Dutt- The moneylender who entered in contract with minor
4. Kedar Nath- Attorney, agent of Brahma Dutt

II. FACTS OF THE CASE

Mohori Bibee is the executive and legal representative of Brahma Dutt, while Dharmodas Ghose is the plaintiff and she is the defendant. The plaintiff misrepresents his age and claims to be a major in order to engage into a contract even though he is a juvenile and any agreement he makes would be null and void from the start. He signed a contract to mortgage his property to Brahma Dutt, a moneylender. The agreement between the two parties stated that the defendant would provide a certain amount of loan in exchange for or instead of the mortgaged property.²

The loan was for Rs. 20,000. The attorney had previously given plaintiff a portion of this monetary value. According to this relationship, if an agent does business on behalf of a principal and a principal provides the agent with any information, both parties will receive that

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² R.K BANGIA, Contract, ALLAHABAD LAW AGENCY, SEVENTH EDITION (2022).

information. The arrangement was partially completed when the lawyer learned that the defendant was a minor, as his mother had notified him via a letter, and that any contract made with him would be his or her duty.³

Moneylenders and attorneys once had a principal and agent relationship. On behalf of the lender, Kedar Nath, an attorney, took action.⁴

At the same time, the minor used his right to renounce the contract because it wasn't necessary and, due to his age, the agreement is void. But while the plaintiff was the target of an appeal, the moneylender tragically passed away; nonetheless, his executive, his wife Mohori Bibee, continued to work on the case.⁵

The request or major issue was that the money that was advanced to the plaintiff as part of the loan—a sum totalling Rs. 10,500—should now be repaid.⁶

12 percent interest is charged on a loan of Rs 20,000. On September 10, 1885, the defendant and his mother filed a lawsuit, arguing that because he was a minor, the contract could not be carried out.⁷

III. ISSUES RAISED

1. Since the minor had obtained advantages and benefits by falsely stating his age, the law of estoppel should be applied. And he should not be offered any relief.
2. Minor must pay the moneylender Rs. 10,500 if the mortgage has been voided or terminated. The Specific Relief Act of 1877 applied to this (Section 39 and 41).
3. Additionally, he had argued for reimbursements under sections 64 and 65 of the Indian Contract Act of 1872.
4. Whether or not the deed violated Sections 2, 10(5), and 11(6) of the Contract Act.
5. whether or not the mortgage that the defendant had started was voidable.

IV. JUDGMENT

According to Section 64 of the Indian Contract Act of 1872, if a party that had the right to

³ Avtar Singh, *Contract & Specific Relief* Eastern Book Company Twelfth Edition (2022).

⁴ Case Analysis- Mohori Bibee v. Dharmodas Ghose, Simran, available at www.legalservicesindia.com, last visited on 27 May, 2023.

⁵ R.K BANGIA *Contract*, ALLAHABAD LAW AGENCY, SEVENTH EDITION (2022), Reprint in 2022.

⁶ Case Note: Mohori Bibee v. Dharmodas Ghose (1903) 30 Cal. 539, Nihal Chhetri, available at www.latestlaws.com, last visited on May 28, 2023.

⁷ Case Analysis- Mohori Bibee V/Dharmodas Ghose, Simran, available at www.legalservicesindia.com, last visited on May 28, 2023.

withdraw a deal does so, they must return the benefits they got from that contract.⁸

However, the section could not be used in the issue at hand since, according to the Privy Council, it only applies to agreements involving minors, which are null and void. Similar language was used to argue that Section 65 should not apply to contracts having legal standing, but that contracts involving minors are invalid.⁹

According to Section 65 of the Indian Contract Act of 1872, if an agreement or contract is deemed to be invalid, the recipient of any benefits, profits, or advantages under the agreement or contract is obligated to restore it or pay the victim of the invalidation compensation.¹⁰

Due to section 65's coverage of minor cases, the Law Commission of India disagreed with this assertion. If a minor impersonates a major, the major is required to make restitution. They believed that the agreement was invalid because one of the parties was incompetent.¹¹

Therefore, because the promise executive in the contract did not bind or hold him accountable, the minor cannot be made to make up and pay back the money that was a partial payment of the loan secured.¹²

The moneylender argued that the minor should be subject to estoppel law. Minor may argue that he was a minor at the time of the agreement, which the council had rejected. The defendant's agent was also aware, thanks to the letter, that the defendant is a minor. If information is sent to an agent in a connection between a principle and an agent, it is assumed that the principal will also get it. Estoppel therefore cannot be used because the age information is covered under Section 115 of the Indian Evidence Act.

When both parties are aware of the truth, estoppel cannot be used. According to section 115 of the Estoppel Act, if one person asserts a claim, that person cannot dispute the veracity of the statement made, even if it misled one person. Following a number of rulings, we come to the conclusion that a minor cannot be barred from claiming that he is a minor by the application of estoppel.

Section 41 of the Special Relief Act of 1877 mandates that upon the cancellation of an instrument, one party reimburse the other. However, in this instance, the kid was well aware of the amount advanced. As a result, this claim was rejected. Two courts, the Lahore High Court

⁸ Indian Contract Act, 1872.

⁹ Avtar Singh Contract & Specific Relief, Eastern Book Company Twelfth Edition (2022)

¹⁰ Indian Contract Act, 1872.

¹¹ R.K BANGIA, Contract, ALLAHABAD LAW AGENCY, SEVENTH EDITION (2022)

¹² Case Analysis- Mohori Bibee V/Dharmodas Ghose, Simran, available at www.legalservicesindia.com, last visited on June 1,2023.

and the Allahabad High Court, expressed their opinions regarding Section 41.

V. LAHORE HIGH COURT

The court heard a case similar to this one, *Khan Gul v. Lakha Singh*, in which a youngster received an advance of Rs. 17,500 and was found responsible for paying back the advance on two occasions;

1. The court ruled that although a minor cannot be held accountable for damages if he is a defendant, the court may order him to make compensation if the minor has filed a lawsuit as a plaintiff. Thus, the court ruled that since the minor is both the plaintiff and the defendant, he must pay back the benefits he got.
2. Along with the goods, the cash received should also be repaid.

VI. ALLAHABAD HIGH COURT

1. Regarding the minor's duty to pay, it was decided that where the minor is also the defendant, they cannot be forced to provide relief.
2. Sir Sulaiman disagreed, claiming that if a property transfer is void and the property can be located, it belongs to the promise. However, it cannot be enforced if it cannot be located and the only way to restore it is to pay cash. A reference to *Leslie V. Sheile* states that a fraudulent minor can be asked to return any property that is currently in his possession, but not any cash because it cannot be tracked down and requiring the minor to pay the money would constitute the enforcement of an agreement that is prima facie void.¹³

The opinions of Sir Shadi Lal of the Lahore High Court were favoured in the Law Commission findings on both issues. Therefore, allowing a lawsuit against a fraudulent minor is in his favour regardless of whether he is the plaintiff or the defendant. According to the law commission, "we have urged the notion of unjust enrichment to be approved, taking into consideration remarks made by Sir Shadi Lal in the Lahore Case of *Khan Gul v. Lakha Singh*." According to the idea, it shouldn't matter who filed the lawsuit—the plaintiff or defendant—in order to recover the unfair benefits. As a result, the panel recommended adding a subsection to the new rule that states that if a defendant wins a case arguing that a contract is unlawful because one party was unable at the time it was entered into, he must restore the benefits. The same rules also apply to mentally impaired people.¹⁴

¹³ R.K BANGIA, *Contract*, ALLAHABAD LAW AGENCY, SEVENTH EDITION (2022).

¹⁴ Report on the limitation Act- Third report of law commission.

VII. PRESENT SITUATION IN INDIA REGARDING MINOR AGREEMENT

Section 33 of the Special Relief Act of 1963 incorporates the notion of compensation. Now, whether he is the plaintiff or the defendant, the kid must pay damages. Since English law is no longer applicable, compensation may be sought.¹⁵

The Indian Contract Act of 1872, Section 70, recognises quasi-contractual responsibility to recompense a person who has borne the expense of another party's enjoyment of a benefit. According to the clause, benefits provided by the individual must be reinstated if they were provided as part of a business or trade relationship rather than out of appreciation.¹⁶

Minor, however, is not included in this clause and hence cannot be affected by it or invoked against her.¹⁷

The court of equity cannot let an infant to profit from his own dishonesty.¹⁸

VIII. AGREEMENTS THAT A MINOR CAN ENTER

1. Marriage: If a minor signs a marriage contract, the marriage is not void.
2. Partnership: A minor may join a partnership for his or her benefit, which includes receiving all profits and gains from the partnership but not bearing any losses. The Indian Partnership Act's Section 4 specifies that minors cannot join partnerships, however Section 40 states that minors may join partnerships to take use of their benefits.
3. Necessities: Every person's definition of what is necessary may differ from another's, but if a minor has been provided with basic essentials of life, the person who provided such services may be held responsible for paying damages.

IX. CONCLUSION

1. After learning that a contract with a child is void from the start, there shouldn't have been any contract negotiations.
2. The equitable notion of restitution, which states that recompense cannot be demanded from a minor under English law, is not relevant.
3. In cases involving minors, the estoppel principle is not applicable. The minor may not be able to understand and comprehend things sensibly and fairly like a major, thus it is

¹⁵ R.K BANGIA, *Contract*, ALLAHABAD LAW AGENCY, SEVENTH EDITION (2022).

¹⁶ Indian Contract Act, 1872.

¹⁷ Bankey Behari Prasad V Mahendra Prasad AIR 1940 Pat 324: State of west Bengal V BK Mondal & Sons, AIR 1962 SC 779.

¹⁸ Avtar Singh, *Contract & Specific Relief*, Eastern Book Company Twelfth Edition (2022).

important to first protect their rights.

4. A minor is not permitted to enter into a promise, but he is permitted to be the beneficiary of a promise.
5. A contract signed by a minor for essentials (such as food, shelter, clothing, education, etc.) may give rise to compensation claims from the other party.
