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# The Power of Incomplete Contracts: Examining the Doctrine of Part Performance

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## ABSTRACT

*In order to stop fraud and unlawful benefit taking place due to the document's non-registration, the equitable doctrine known as the Doctrine of Part Performance was integrated. According to the doctrine, the transferor and anyone claiming under him are prohibited from enforcing any rights—aside from those expressly granted by the terms of the contract—against the transferee and anyone claiming under him with regard to the property that the transferee has taken or is continuing to possess.*

*Equity looks at what is done as it ought to have been done is the concept upon which this doctrine is built. When someone enters into a written agreement to transfer any immovable property for consideration, and the terms required to make the transfer are ascertained reasonably certain, and the transferee has either partially fulfilled the contract by taking possession of the property or any part of it, or the transferee, already in possession, continues to partially fulfill the contract and has carried out an act in furtherance of the contract, and the transferee has fulfilled or is willing to fulfill his portion of the contract, then, even in cases where there is an instrument of transfer, the transfer has not been carried out in the way specified by the law currently in effect. A right regarding property that the transferee has taken possession of or continued to hold, other than one that is specifically granted by the terms of the contract, cannot be enforced against the transferor or any person claiming under him.*

*As long as the transferee for consideration is unaware of the contract or its partial fulfillment, nothing in this section will impact their rights.*

**Keywords:** Part Performance, Property Transaction, Transfer, Transferor, Transferee.

## I. INTRODUCTION

Section 53A of the Transfer of Property Act, 1882, allows potential property transfer recipients to keep their new assets until it is completed. The section protects these transferees against the rights of the transferors who have failed to complete an incomplete document in some way specified by law without any fault on the side of the transferee. According to the principle of part performance, an individual who had obtained the legal possession of the immovable

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property or a part of land, through an unregistered sale deed and had fulfilled or is prepared to fulfil their share of the contract cannot be taken out or reversed from the continuation of sale of property or land, even if they do not own the legal title. The foundation of this doctrine is the idea that equity considers actions taken rather than actions that should have been taken. Section 53A defines partial performance. Considering the concept of equity, the doctrine of part performance seeks to shield parties who have benefited unfairly from oral agreements and to stop unjust enrichment.

**(A) For what reason was Section 53A of the Transfer of Property Act of 1882 passed?**

Section 53A of the Transfer of Property Act, 1882 was passed in India, and its sole purpose was to protect the interests of a transferee who was in possession of the property due to a contract that was only partially performed. This provision is especially crucial in situations where the seller (transferor) tries to sell the property to another party while still receiving consideration (full or partial payment) from the buyer by taking advantage of the legal technicality that the property hasn't been officially transferred, because there isn't a registered deed. When a transferee takes ownership of property as part of a contract and fulfils their obligations under it (such as paying the agreed-upon price), Section 53A offers them protection. The contract prohibits the transferor from exercising any rights against the transferee that are in conflict with the terms and conditions stated in the contract's part performance, even though it may not have been registered as required by law. In 1929, this clause was proposed as an amendment to rectify an unfair situation in which a buyer may be deprived of their rights because there was no legally registered deed, even if they had already taken possession of the property and might have spent additional funds in it. It essentially serves as a safeguard, guaranteeing that those who have complied with the terms of a contract for the transfer of property and behaved in good faith have some kind of remedy.

## **II. PART PERFORMANCE DOCTRINE PRINCIPLES**

A formal contract that the transferor has signed or on their behalf is required for the transfer of immovable property. If there is no agreement or if the agreement is null and void, the doctrine cannot be applied.

The prerequisites listed below must be met.

- There must be a consideration between both Transferor and Transferee
- The contract should clearly state all the terms and conditions of the transfer

- As a result of this agreement, the transferee must have either taken possession of the property or, if in possession already, continued to do so.
- It is necessary for the transferee to have done something to advance the parties' interests. Acts carried out independently of or before the agreement cannot be considered to be part performance of the contract.

The doctrine of part performance only applies to written contracts that are enforceable. Oral agreements that are null and void are exempt. The written contract must be signed by the transferor. The property has been possessed by the transferee in accordance with the terms of the transfer agreement.

Both the transferee and the contract need to be prepared and eager to carry out their half of the agreement. Not just the sale contract in particular, but all such contracts of transfer for consideration are covered by this clause. Section 53A is no longer viewed as a "substitute" for registration, and its application has been made less stringent as a result of a 2001 amendment. If there are any defects other than registration, it should still be valid. But real estate sales must now be registered, and Section 53A has been updated to reflect this requirement.

A handful of criteria must be met in order for the Doctrine of Part Performance to come into play. The Transfer of Property Act, 1882 states that the transferee must have taken possession of the property, either wholly or partly, or that an already established transferee must maintain possession to partially fulfill their end of the bargain. The party claiming that there is a contract must perform the part and it has to relate directly back to it. Keep in mind that this doctrine only applies to verbal agreements involving real estate sales or transfers. It does not include any other kind of verbal agreement. When it comes to contracts regarding personal services, courts have made clear that partial performance is not applicable. Also, when asking for equitable remedies such as particular performance, you can use this theory against a Statute of Frauds defence. Monetary damages can only be sought out by following through with past performance.

#### **(A) Literature Review:**

<sup>2</sup>Section 53 A: Part performance— If someone agrees in the writing for an transfer of immovable property for consideration, signed by him or his agent, from which there can be inferred, with reasonable certainty, the necessary terms when is used whether it is possible to make such an inference and also whether the transferee has taken the possession of the property and remains in possession parting with it as partial performance of the contract and has done

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<sup>2</sup> 'The emergence of Doctrine of Part Performance: A Legal analysis of Section 53A of the Transfer of Property Act' by Chaitanya Thakur

some other act (including execution and registration, if any) showing his/her Bonafede then, In cases where there is an instrument of transfer which is executed as required by law, also that if anything remained while performing the transfer, this section shall not take away or limit the right of the transferee or any person claiming under him whether it will be illegal for the transferor or anyone or he has the legal control over to enforce their rights against them. They will not have a say in what happens next unless what they want is stated in this section.

- Act 48 of 2001, sec. 10, omits the sentence "the contract, though required to be registered, has not been registered" (w.e.f. 24-09-2001).

### **III. <sup>3</sup>INDIAN LAW AND ENGLISH LAW**

Part performance is a legal concept that encourages equality and was first recognized by the Court of Chancery before being established in England. Section 4 of the Statute of Frauds 1677 makes this very clear that any claim relating to the sale of property must be made in writing.

Judges recognized whether if there was no legal action for violating verbal commitments, there may be widespread abuse of the law, which would overturn the purpose of the Statute of Frauds<sup>4</sup>.

The Chancery court created part performance as a result to prevent such circumstances and safeguard transferees' rights.

The Part Performance Law in England.

- The transferor is not required to sign or write the contract.
- The doctrine defines the right as an equitable right.

In addition to being useful for protecting and enforcing rights, it also provides a title on the transferee.

<sup>4</sup>The Part Performance Law of India

“The Transfer of Property Act of 1882” was not drafted with an idea of partial performance in mind. An amendment included it into the Act in 1929. Even though the theory wasn't officially recognized until 1929, a number of decisions looked at how the egalitarian philosophy was applied in India.

1. Section 53-A addresses the principle and specifies Considering that the transferor must sign the written contract.

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<sup>3</sup> Article on Doctrine of Part Performance by Wallcliffs (Wallcliffs Law Firms).

<sup>4</sup> ‘Doctrine of Part Performance and Specific Performance of Contract’ by Monesh Mehndiratta.

2. It is a statutory right
3. It does not grant the transferee a title.
4. It is limited to defending the transferee's possession.

<sup>5</sup> Part performance as a concept was not originally included in the initial draft of the TPA, 1882. An amendment included it into the Act in 1929. Even though the theory wasn't officially recognized until 1929, a number of decisions looked at how the egalitarian philosophy was applied in India.

<sup>6</sup>It must be acknowledged that the Registration Act and Other Corresponding Laws (change) Act No. 48 of 2001, Act, 2001 has become a barrier to the safeguarding S.53A, diminishing its significance as a safeguard for the transferee before the amendment. The Law had a more permissive and liberal stance before the amendment. In court proceedings, even unregistered and improperly stamped documents may be admitted as evidence.

This made it simpler for the transferee to demonstrate and validate their sale agreement to be eligible for S.53A protection and make use of it as a defensive tool against the transferor's request for possession. When it comes to paperwork, the bulk of India's poor and even middle-class citizens are ignorant of it and have disabilities. The 2001 Amendment Act mandated that A contract must be appropriately stamped and registered. The prior benefit of the transferee's exemption from registration of a contract filed as evidence under S.53A was removed by amending S.49. This proved to be a challenge for a lot of transferees because not everyone is aware of the constant changes in the law and not everyone has the means to register and stamp their passport. The aforementioned amended statute defeats the defence offered by S.53A, which permitted the transferee to keep ownership of the property. An Amendment Act No. 48 of 2001, in my opinion, has shown to be a sword that encircles its own shield.

<sup>7</sup>In such a case, B, having fulfilled the terms of the contract, may seek specific performance from A. Section 53A preserves B's rights by underlining that the failure to register or complete in the authorized way does not invalidate B's equitable interest. The deed must be signed and stamped; otherwise, it is not valid. It is important to emphasize that this provision has no bearing on a transferee's consideration rights, even if they were uninformed of the contract's terms. The

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<sup>5</sup> 'Part Performance' by Laval Verma, (Civil Judge, Gopesh war, Chamoli).

<sup>6</sup> "S.53A, Transfer of Property Act – A Sword to its Own Shield?" by 'Aman Mehta' from 'Jindal Global Law School'.

<sup>7</sup> From Concept – Section 52,53 and 53-A of TPA.

theory seeks to avoid undue enrichment and offers a remedy for the party who has fulfilled their contractual obligations.

The legal necessity for Transferring immovable-property worth more than Rs. 100 could be challenging., especially if one party has already completed their duties and trusts that the other side will uphold the agreement. To handle such situations, the theory of part performance is invoked, which provides a defence and the right to safeguard ownership even when there is no registration or formalities.

This legal clause serves as a safeguard, prohibiting the eviction of a transferee who has taken ownership of the land through an unregistered contract. Section 53A serves as both a protective shield and a remedy, attempting to prohibit fraudulent conduct based on insufficient proof of the transfer. While it does not convey ownership to the transferee, it does put a legal impediment on the transferor.

When A commits to sell B an immovable-property, giving B access to the property before the sale deed is formally signed, the contract is considered partially completed. If A later refuses to complete the sale deed and pursues legal action against B for eviction, regarding B as a trespasser, B has the right to fight against the claim. B might claim that the transfer agreement has been partially fulfilled, and A should not be allowed to withdraw from their promise. This case demonstrates how Section 53A serves as a safeguard for parties that have relied on the agreement and obtained ownership of the property.

**(A) Statement Of Problems:**

**a. “Deprivation Of Rights”**

The transferor and anyone deriving rights from them are prohibited from bringing any claims against the transferee and their affiliates regarding the property after the terms are met. Essentially, this guarantees the protection of the transferee’s possession, even in cases where the contract lacks registration or official legal procedures are not followed to complete the transfer.

**b. “Exception for innocent transferees”**

One of the provisions is a condition, articulated as a proviso, specifying that Section 53A has no bearing on a transferee's rights who is not aware of the contract or partial performance.

**c. “Willingness to perform”**

The transferee must either meet their contractual obligations or be ready to fulfill them.

**(B) Objectives:**

The Part Performance Doctrine exclusively covers written and valid contracts. Invalid or spoken agreements don't make the cut. On top of that, the transferor must sign it and it must be in writing. The transferee has taken ownership as part of a contract, and he better be ready to commit or else. The commitment portion not only applies to sales but for all other types of consideration contracts too. The goal of the study is to find out how much and what kind of "right" is deprived, which the transferor obtained regarding the "property". It also aims to determine which properties are covered under this section, as well as what it means for the property to be "taken or continued in possession." The Act's addition of Section 53A through the 1929 amendment aimed to embrace the fair English concept of partial execution. Another significant objective was to curb fraud and misconduct by a transferor exploiting situations where document registration is neglected. By incorporating Section 53A, the main objective of safeguarding the property rights of the transferee, especially when the transferor behaves with malice and dishonesty, failing to fulfill contractual duties, is achieved.

This doctrine has a number of purposes, arising from its maxim that he who seeks equity must do equity. They are:

- It compels the transferor and transferee to do their part of a contract.
- The principle also aims at safeguarding the rights of the transferee regarding ownership.
- Also, it saves innocent transferees from fraudulent acts by transferors.
- Therefore, under this doctrine, no one including the transferor can enforce any right against the property except those mentioned in the contract.

Additionally, the Section seeks to avoid unfair treatment of the transferee. Denying recourse to a transferee who has fulfilled their contractual obligations in anticipation of reciprocal actions from the other party would constitute a serious injustice. The Section provides a defensive mechanism for the transferee to safeguard their legitimate possession of the property.

The transferor and the transferee are required by law to complete a transfer, and the transferee is expected to pay the agreed amount under the contract and to perform the act of transfer as prescribed by statute; but if he does not, though a suit for specific performance will not lie against him at his instance, yet if he has done everything in his power to make out title from the transferor he cannot be put out of possession at suit of the transferor or those claiming under them.



Section 53A seeks to preserve the right of ownership in favor of the transferee if it would have been enforceable against him had he claimed it in proceedings instituted by another party who became entitled after completion had become impossible because of some default on his part.

This was said by Venkatachaliah J. while summarizing section 53A in *Lachhmi Narain v Union of India*: "Section 53A protects his [the subsequent bona fide purchaser's] right to retain property already purchased".

It enables a vendee who has paid purchase-money or part thereof, and has taken possession pursuant thereto, to protect himself against eviction not only on ground that vendor has no title at all, but also on ground that vendor has subsequently conveyed away or encumbered land so as to give transferee better title than vendor himself ever had; such a vendee may tile this section as bar both against vendor and person claiming through or under him.

In Indian legal milieu, this section affects partial equality and partial inclusion with regards to partial results.

The aim behind this provision is not entirely discriminatory towards the recipient or persons claiming through them with respect to asserting their rights which are detrimental towards other contracting party who claims through them but failed due to fatal defects in agreements executed between himself and third parties.

It is a legal enactment which precludes him from saying that a title of what might have been entered against him by the plaintiff who became entitled to it after completion was no longer enforceable because it could not have been enforced if he had claimed it in proceedings instituted by another person who became entitled after completion had become impossible by reason of some default on his part.

It enables him, in consequence, to keep property against vendor or persons claiming his rights through them such as heir, aliened and legal representative.

**(C) Research Question:**

1. Whether is it possible to issue an Injunction under Section 53A?
2. Whether Section 53A protects the right of the person whose transaction has been time barred as per provisions of limitations act?
3. Can the principle of part performance be said to provide a strong legal basis for enforcing incomplete property transactions and promoting the fairness in contractual relationships?

**(D) Hypothesis:**

This clause enables that whether the person to whom the property is being transferred to have a legal basis upon which he/she can contest the right of the transferor to remain in the possession of that property either actually or constructively as has been explained detailed in this study. Section 53-A of TPA which knowns to forms an important for examining the Doctrine of Part Performance in relation to real estate or property transactions. In doing so, it also ensures that transferees who partially performed their contractual obligations and are not left without a remedy. Moreover, it is suggested that section 53A also functions as a shield against the transferring party's unjust enrichment or unlawful behaviour through an exploitation of procedural gaps, including the non-registration of property transaction. Thus, from close examination, it is believed that this doctrine will support enforcement through a specific performance for an incomplete conveyancing process and hence the process instils the justice and equity within commercial relationships based on contract making provision for the protection of transferees.

It has been observed from the above statement that "any right" means one where the transferor does not intend his or her rights to be a binding on transferee and those claiming under him or her. Therefore, this work will discuss "any right of the transferor." It will investigate what property means and its extent as well as everything that could go by it. Additionally, "taken or continued in possession" might just make one connection with other rights of a transferor and transferee which are based on an entitlement to any right, provided that only particular conditions are met: both registrations should be done for transferring ownership.

**(E) Research Methodology:**

In this paper we will be using the Doctrinal Methodology which will help us to focus on analysing and interpreting the legal documents, case law, regulations and the statutes that are available. So, after analysing this we will be getting a clear understanding about the Doctrine of Part performance in property transactions after that we can apply it in our research questions and arrive to an accurate conclusion that this method will help us to identify the legal gaps and inconsistencies. Therefore, it enables us to develop a deeper understanding of principles, Legal Concepts and doctrines, and then apply them in our legal problem.

**IV. STUDY OF VARIABLES**

While talking about the study of variables, the Doctrine of Part Performance points out that a transferor must own the part of the property being sold to use this clause as a defence and then sell it in the other way specified while using the shield. If the relevant agreement is not a legal

one, then you can't now say that because of something in that agreement you get to use this shield. But for a transferor to be able to use this shield, there must at least be an agreement that is a legal one. The purpose of this section is only to let a transferor put on his property — or on someone else's property that he has an ownership interest in — during which he tries to sell his ownership interest. It does not give any right to him with respect either to unregistered transfer or registration itself or to anything else except as a defence. For this section ever having any effect at all, an agreement must actually exist successfully connecting it either with things done by anyone in support of selling ownership interest or with things already mentioned clearly enough in that agreement. If there is no transfer arrangement or land, the applicability issue of this provision does not arise. To attract its penalty terms on unrecorded transfer, as well as those giving rise to security interests evidenced only by possession of paper — thereby extending them from their traditional domain into real estate transactions — its requirements are these: The transferee shall acquire rights under a purchase contract (and thus have some kind of 'ownership'), shall acquire possession pursuant thereto (unless he points out another basis for possession), and shall harmlessly do various things and ready himself harmlessly further.

<sup>8</sup>“*Balaraja and Anr. V. Syed Masood Rowther and Anr. (1998)*” is a case where the Madras High Court decided that the right of transferees to enforce transfer as outlined in Section 53A are subject to some conditions which must be satisfied. The conditions include:

- This doctrine is applicable only if there has been a valid contract, and one that can guarantee its enforcement by law.
- To enjoy the benefits brought about by section 53A, this contract must be registered.
- The said section does not apply to verbal agreements.
- For this section to apply possession should have been taken by the transferee under the part performance thereof.
- In addition, such a transferee must also be ready or willing to fulfil his obligation under the contract or do anything towards it.

### **(A) Research Question 1**

#### **Whether is it possible to issue an Injunction under Section 53A?**

In fact, it is possible to obtain an injunction under Section 53A of the Act. The object behind this section is to safeguard the interests of a purchaser who has entered into an agreement with

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<sup>8</sup> “*Balaraja and Anr. V. Syed Masood Rowther and Anr. (1998)*”.  
[1999] 1 MAD LW 484

regards to purchase for immovable property but such a person has not received ownership or possession. This means that if a person has agreed in writing to transfer any immovable property for consideration and the transferee takes possession of the whole or any part thereof, which is in part performance of the contract, or having already been in possession of those premises, remains there as partial performance and carries out some act towards affecting the contract while at the same time being prepared and willing to perform his part of the agreement, then whether or not such a required-to-be-registered contract was actually registered; or even if no instrument of transfer exists yet such a transfer was not completed as provided by law at that time; a invalidating plea against transferor's rights in relation to anything other than those expressly contained in such agreement is established. In simpler terms, S. 53A shields buyers from sellers' interference where certain conditions have been met by buyers but transactions are incomplete. Therefore, from this provision we can infer that it protects against sellers who renege on sales after finalizing them because contracts have already taken effect when buyers gain possession over what they are buying or carried out other acts supporting their bargains. Thus, injunctions can be granted under Section 53A so as to protect purchasers whose fulfilment meets these stipulations. The legal doctrine of part performance in the property transaction is one of the principles that can be used to enforce an incomplete or oral agreement for the sale of land. This needs to be stayed as long as certain conditions need to be met. It's vital in instances where the parties have to be verbally agreed to sell a property but have not yet put it down on the paper, or which is enforced. While comparing the doctrine of part performance, things are to be kept in mind to analyse how different legal institutions, like common law and civil law jurisdictions, which can handle this legal principle. The part-performance doctrine applies only to oral contracts dealing with sale or transfer of realty. It keeps transferees safe if they've played by the rules, even if those rules didn't meet formal requirements of the law. And if someone put good faith and effort into an agreement but still falls short, this doctrine has their back. It makes sure parties can't lose out on what's rightfully theirs due to some technicalities. And that's not all. The Doctrine of Part Performance also promotes certainty and stability in property transactions by picking up on practical realities where parties have already started moving forward with their agreements.

***9 "Shrimant Shamrao Suryawanshi v. Pralhad Bhairoba Suryanvanshi (2002)."***

Facts:

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<sup>9</sup> "Shrimant Shamrao Suryawanshi v. Pralhad Bhairoba Suryanvanshi (2002) AIR 2002 SC 960".

“In this case, the respondent and appellant entered into an agreement to sell agricultural property. The appellant obtained ownership of the property as a consequence of the arrangement, but then discovered that the respondent was negotiating a sale deal for the same land with someone else. The appellant filed an injunction against the respondent, which was granted, but the respondent continued to sell the property to another individual. The other individual who purchased the land filed a lawsuit for possession, which the appellant resisted. However, the trial court rejected the case, claiming that the appellant's title had not been established.”

Issue:

“Whether the appellant is entitled to take advantage of the doctrine of part performance in the present case if the suit for specific performance is barred by limitation.”

Judgement by Court:

“In this instance, the court found that the appellant was willing and prepared to discharge his contractual obligations. The court went on to say that even if the claim is barred by limitation, the appellant can still protect his rights if he can show that he either did or is prepared to do something in furtherance of the agreement. Thus, the court in this instance determined that the appellant is entitled to profit from the theory of part performance enshrined in Section 53A of the act.”

### **(B) Research Question 2**

**Whether Section 53A protects the right of the person whose transaction has been time barred as per provisions of limitations act?**

For instance, Section 53A of the Transfer of Property Act, 1882 provides security to purchasers who have entered into contracts for sale of immovable property and have taken possession thereof or performed some acts pursuant thereto. Nonetheless, it is necessary to consider how Section 53A interacts with the provisions of Limitation Act prescribing time frame within which legal action can be commenced. In this regard, though Sec 53-A protects the buyer's right to possess against any seller or his/her successors in interest it does not go beyond what has been prescribed under the Limitation Act as far as initiating a cause of action is concerned.

When a transaction is said to be time-barred as per the provisions of Limitation Act, it means that the period specified by law within which a legal proceeding can be initiated has elapsed. Therefore, even though a buyer has satisfied the requirements under Section 53A and is in

possession of such property, he/she may not institute legal proceedings since the limitation period for bringing an action may have lapsed.

However, the Section 53A can be noticed as being an independent of Limitation Act as far its protection regarding the possession of rights is concerned. S.53A which deals with the safeguarding of right which clarifies that in certain circumstances the acquiring possession by which the purchaser if carrying out acts to further the transaction will protect one's ownership and it will not matter of fact even if it has been attempted for more than the time allowed under The Limitation Act. The Doctrine of Part Performance is important because it can be used to avoid the Statute of Frauds in cases where parties enter into an unwritten agreement without considering all potential conditions that may arise during the course of their dealings. It's an exception to the prohibitions of the Statute of Frauds as recognized and applied by courts in equity. The part performance doctrine is based on a concept that when two parties enter into an agreement, if one allows the other party to act pursuant to the agreement, he creates equity and cannot later object to performance of the agreement on the ground that not all formal legal requirements were met. The part performance doctrine applies only when there are circumstances such as these: The transferor refuses to approve sales contract with transferee, then signs contract with another party for more money, thereby ousting original transferee from deal. In property law, it plays a role in enforcing specific performance — a remedy requiring a breaching party to perform its contractual obligations — which does not pertain to other kinds of oral contracts.

In summary, though the Section 53A of Transfer of Property Act which secures buyers occupation rights in few cases; nevertheless, it doesn't extend the period for the limitation under The Limitation act which mean no litigation can be initiated so if a claim has been time-barred then difficulty may arise for the buyer since then he/she would lose this protection afforded by S.51A of TPA.

<sup>10</sup>*“Union of India v. M/S K.C. Sharma and Co. (2020).”*

**Facts:**

“In this case, the government acquired leased land from the respondents. The respondents argued that they should be reimbursed because the land was in their ownership. The civil court ruled that the government must reimburse them for 87% of the total money and donate the remainder to the local Panchayat. Some of the unhappy villagers filed a writ petition against the civil court's ruling, arguing that the petitioners were not lessees. The High Court requested that

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<sup>10</sup> “Union of India v. M/S K.C. Sharma and Co. (2020) SCC 2020 SC 686”.

the Additional District Magistrate take part in the proceedings. The appellant filed an appeal in the Delhi High Court, alleging that the Civil Court ruling was acquired via fraud because there was no lease agreement for the land. This was transferred to the trial court, where the appellant's case was decided in her Favor. The respondents, who were dissatisfied with the decision, petitioned the High Court, which overturned the trial court's decision. The matter was eventually appealed to the Supreme Court.”

**Issues:**

“Whether the doctrine of part performance be applied in this case where the lease agreement is not registered.”

**Judgement of the Court:**

“In this case, the respondents asserted that they were entitled to benefits under Section 53A of the Act notwithstanding the lack of a recorded lease agreement. In this case, the Supreme Court stated that the respondents were given ownership of the land as a consequence of a lease, hence a lease agreement is unnecessary. This is because the parties' objectives are clear, and the lease has been approved by the board of directors. Furthermore, the Court ruled that when there is a real contract but no registered instrument, the parties can nevertheless take use of Section 53A of the Act”.

**(C) Research Question 3****Can the principle of part performance be said to provide a strong legal basis for enforcing incomplete property transactions and promoting the fairness in contractual relationships?**

The legal design for the part performance in transfer of property act in fact is a strong and capable for safeguarding the unfinished property deals and fair contracts. The house which is not completed unless one of the parties performs his or her part and this happens especially during real estate or property related transactions. Sections 53.A of Transfer of Property Act, 1882 recognizes this doctrine in jurisdictions like India.

One of the most important aspects of the doctrine of part performance is that it protects the purchaser from before they become the owners or possessors of the immovable property. It avoids the situations where sellers would breach agreements after buyers have already complied with some conditions by affording them such buyers who actually take the possession and perform certain terms of an agreement which denotes the right to do so. In addition, as regards unjust enrichment, which makes the parties accountable for their obligations which ensures the contract fairness.

Besides this, one of the aspects which serves to hedge against the risk associates with an expensive property transfer. This assurance is very much necessary even if the completion does not take place as an originally envisaged. Probably this kind of a guarantee stimulates the parties to make and perform the transactions which in turn encourages the economic activity in real estate businesses.

Furthermore, it also enhances the stability and predictability of the contractual relationships between the buyer and seller. It also clarifies the availability of a clear legal framework which enforces incomplete contracts which helps to remove the uncertainties and ambiguities surrounding the property deals. In this Transaction trust can prevail when the commercial entities rely merely on these rights so that defenders can protect their own rights and interests.

Overall, all this doctrine which signifies for maintaining fairness and justice in contractual relationships especially when there is a dealing with issues concerning with the land sales and where the transaction related to property has been taken place. In Such cases the trust is advanced because there is enforcement even possible without a formal completion of a specified transaction thus moving economic activities towards proper running of the market.

***“Joginder Tuli v. State of NCT of Delhi (2022).”***

**Facts:**

“In this case, the petitioner and the deceased respondent signed a Memorandum of Understanding (MoU) for the sale of a business for consideration. However, the Memorandum of Understanding was not registered. He claimed that he was not handed possession because the deceased's relatives had hired a constructor to develop on the land. Due to a disagreement between the parties, the police asked the petitioner to submit the required documentation. Despite presenting the MoU, the property was sealed. After some time, the builder began negotiating with the petitioner for the sale of the land and intimidated him, prompting the petitioner to file a writ case in the Delhi High Court.”

**Issues:**

“Is it required to produce registered papers to benefit from Section 53A of the Transfer of Property Act, 1882”?

**Judgement of the Court:**

“In this instance, it was determined that in the lack of registration papers or evidence of property possession, the advantages of Section 53A of the Act cannot be claimed. Section 17(e)(1A) and Section 49 of the Registration Act further state that only registered papers may be used as



evidence. As a result, the petitioner was ineligible for any Section 53A benefits since he failed to present a registered document proving possession of the property.”

## **V. CONCLUSION**

The part performance doctrine is an equitable theory that prevents fraud. In this case, it's the fraud of someone who didn't register their transfer and then goes on to take advantage of a transferee who's done some of the work in good faith. The theory was founded on people believing intent matters more than form. Even if the agreement, or form, is unregistered.

The current doctrine is something used by transferees to protect themselves rather than attack others. This doesn't mean that they can only use it as a defendant; they can also be plaintiffs in court. A part of the contract being performed and the transferee's willingness to complete the rest will make this defense come into play. Also, 53A makes it clear that if a conveyance deed isn't registered, it won't hurt the transferor if the buyer has done enough for a legal transfer to be made with registration. A fair idea that guards against fraud is the doctrine of partial performance. Fraud in the sense that the absence of registration transferor does not unfairly benefit from a transferee who has diligently finished some of his tasks. Equity is predicated on the notion that intent, not form, is what matters. The goal of intention is for the parties to carry out the agreement even in the event that the form—that is, the agreement—is not registered.

The present theory cannot be utilized as an attacking weapon; rather, it serves as a shield that the transferee uses to protect his interests. The transferee is not limited to using the protection in this case as a defendant; he is also free to appear in court as a plaintiff. When a portion of the contract is fulfilled and the transferee agrees to finish the remaining portion of the contract, the aforementioned doctrine will take effect.

In conclusion, 53A makes it quite plain that, provided the buyer has fulfilled his obligations in a way that leaves a legitimate transfer through registration, the transferor is not adversely affected if a conveyance deed is not registered.

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