

CASE COMMENT: MOHORI BIBEE V DHARMODAS GHOSE

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INTRODUCTION

This historic case discusses a contract with a juvenile. This particular issue concerns a contract with or belonging to a minor. A minor is defined as an individual who has not reached the age of eighteen or who is under that age. The courts have determined that a contract with a minor is invalid-ab-initio, or void from the start. A minor does not plan to enter into agreements or make important choices. Because minors lack the legal capacity to enter into contracts, this important case informs us that they must be protected while transacting with significant others.

PARTIES TO THE CONTRACT

- 1) Dharmodas Ghose:- Plaintiff, minor
- 2) Mohori Bibee:- wife of Brahmdutt and his legal representative of the case
- 3) Brahmdutt:- The moneylender who entered into the contract with the minor
- 4) Kedarnath:- Attorney, agent of Brahmdutt

FACTS

In *Mohori Bibee v Dharmodas Ghose*,¹ a minor named Dharmodas Ghose was a resident of Howrah. His mother named Jagendra Nandini acted as a legal guardian. Dharmodas Ghose was the owner of several movable and immovable properties. He mortgaged one of his immovable properties and availed a loan of Rs 20000 from Brahmdutt who was a moneylender. The rate of interest agreed upon was 12%. After this, the mother of Dharmodas Ghose Jagendra Nandhini sent a notice to Kedarnath who was the Attorney of Brahmdutt stating that Dharmodas was minor and no transaction could be done with him. After this attorney of Brahmdutt Kedarnath signed a declaration from Dharmodas in which it was stated that Dharmodas Ghose had taken a loan of Rs 20000 and he would repay the same after obtaining the majority. Dharmodas' next friend filed a case in lower court regarding the same and it was

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¹ *Mohori Bibee v Dharmodas Ghose* (1903)

declared that a contract with a minor is void since they lack the legal capacity to enter into one. Therefore, the minor's commitments have no meaning at all. A lawsuit was brought on September 10, 1895, by Dharmodas Ghose and his mother against Brahmdutt. They claimed that since Dharmodas was underage when the contract was made, it was void. Regretfully, Brahmdutt passed away during the court fight, and his attorneys took up the matter. Following Brahmdutt's passing, Mohori Bibi, his widow, is appealing the case.

ISSUES RAISED

- 1) Did sections 2, 10, and 11 of the Indian Contract Act, 1872 declare the deed void?
- 2) Is the defendant required to repay the loan balance?
- 3) Whether the contract is void or voidable?

ANALYSIS

In this case, various principles of law had been analysed and laid down as follows:

1) Law of estoppel

The law of estoppel means that if any person incurs liability on another person's representation then he will not be allowed to contradict it later in a court of law. In the above case, the law of estoppel does not apply as the attorney of Brahmdutt named Kedarnath knew the Dharmoda minority. It is also held by the court that even if a minor makes intentional misrepresentation he is allowed to plead his minority and take defence.

2) Sec 64 and 65 of the Indian Contract Act, 1872

When a person at whose option a contract is voidable rescinds it, the other party thereto need not perform any promise therein contained in which he is promisor. The party rescinding the avoidable contract shall, if he has received any benefit thereunder from another party to such contract, restore such benefit, so far as may be, to the person from whom it was received.² When an agreement is discovered to be void, or when a contract becomes void, any person who has received any advantage under such agreement or contract is bound to restore it or to make compensation for it to the person from whom he received it.³ Sec 64 and sec 65 of the Indian Contract Act, of 1872 relate to the restoration of benefits received under void contracts and

² *The Indian Contract Act, 1872 s 64*

³ *The Indian Contract Act, 1872 s 65*

voidable contracts respectively. In the present case as the party was incompetent to contract the above-stated provisions won't be applicable.

SECTION 115 OF THE INDIAN EVIDENCE ACT, 1872

In any lawsuit or proceeding between himself and that person or his representative, neither he nor his representative may deny the truth of anything that the other person has, by his declaration, act, or omission, purposefully caused or permitted to believe to be true and to act upon such belief. Since both parties to the contract were aware of the respondents' minority status, sec. 115 was ruled to be inapplicable in the aforementioned case.

JUDGEMENT

The trial court's decision declared the mortgage deed that was started between the plaintiff and the defendant to be void. When an appeal was filed at the Calcutta High Court following unhappiness with the trial court's verdict. The Calcutta High Court denied his appeal, concurring with the lower court's ruling. Later, once the case was brought before the Privy Council for review, the Privy Council dismissed the case as well, ruling that a contract between a major and a minor was unconstitutional.

CONCLUSION

It is clear from *Mohori Bibi v. Dharmodas Ghosh* that a contract with a minor is void from the beginning. A court of law cannot enforce it. If a minor does something without their permission, their parents or guardians won't be held accountable either. However, if the minor's actions are carried out with their permission, they will be legally responsible. It also highlighted the importance of restitution and equitable relief in such cases to ensure fairness and protection for minors.