
LIMITATION PERIOD IN FRAUDULENT SALE DEEDS: 3 YEARS OR 12 YEARS

INTRODUCTION

In a recent judgement of **Shanti Devi(through Legal Representatives, Goran) v. Jagan Devi** [[2025 INSC 1105](#)], the Supreme Court has clarified the limitation period related to fraudulent sale deed disputes by emphasizing the distinction between void and voidable sale deeds. The court clarified the prerequisites needed for a fraudulent sale deed to fall within the ambit of article 59 and article 65 of the Limitation Act, 1963 for adjudication via this case. This article focuses on the difference between these two provisions and their applicability while also touching upon key aspects of the case.

CASE BACKGROUND

This case came up after the original plaintiff filed a plea after 11 years, seeking permanent injunction and a declaration that the sale deed dated 14.06.1973 concerning plaintiff's property was fraudulent and void.

The trial court had ruled against the plaintiffs on all issues, including that of limitation period. The plaintiffs filed the first appeal in district court, that ruled in their favor and the second appeal by the defendants in High Court of Punjab & Haryana also, favoured the plaintiffs, though applied article 59 of the Limitation Act, 1963 (instead of article 65 of the Act, applied by the District Court). This led to the defendants filing Special Leave Petition (SLP) No. 24821 of 2018 before the apex court where they challenged the High Court's judgement and the validity of the sale deed.

SALE DEED: VOID v. VOIDABLE

The court has highlighted a fine distinction between void and voidable sale deeds (established in [Prem Singh v. Birbal](#)) where fraudulent misrepresentation regarding the 'character of the document' (e.g. the deed was never executed by the owner of the property) makes it void, while the same in regards of 'contents of a document' (e.g. the documents are valid but they're factually incorrect or taken fraudulently) make it voidable. Following is the quoted statement from the case:

"13. Article 59 of the Limitation Act applies specially when a relief is claimed on the ground of fraud or mistake. It only encompasses within its fold fraudulent transactions which are voidable transactions.

16. When a document is valid, no question arises of its cancellation. When a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non est in the eye of the law, as it would be a nullity.

17. Once, however, a suit is filed by a plaintiff for cancellation of a transaction, it would be governed by Article 59. Even if Article 59 is not attracted, the residuary article would be.

18. Article 59 would be attracted when coercion, undue influence, misappropriation or fraud which the plaintiff asserts is required to be proved. Article 59 would apply to the case of such instruments. It would, therefore, apply where a document is prima facie valid. It would not apply only to instruments which are presumptively invalid. (See Unni v. Kunchi Amma [ILR (1891) 14 Mad 26] and Sheo Shankar Gir v. Ram Shewak Chowdhri [ILR (1897) 24 Cal 77] .)”

The document that’s “void” or “void ab initio” is considered legally non-est (non-existent) from the very start and doesn’t attract any rights. Such deed doesn't require cancellation and the rightful owner can directly file a suit for possession under Article 65 of the Limitation Act of 1963. The deed that’s “voidable” is valid until it’s annulled by a competent court. In that case, the aggrieved party can file a suit for cancellation within three years under Article 59 of the said Act. The suit for possession based on title would apply from the date on which the possession of the defendant state became adverse to the plaintiff, as ruled in *Bhim Singhji v. Union of India* [(1981) 1 SCC 166] via:

“4. Article 58 of the Limitation Act, 1963, prescribes limitation of three years from the date when the right to sue first accrues to obtain a declaration. Under Article 65, the period of limitation prescribed for filing a suit for possession of immovable property or any interest therein based on title is 12 years from the date when possession of the defendants becomes adverse to the plaintiff. The contention urged on behalf of the State Government was that Article 58 of the Limitation Act was applicable as the plaintiff had sought declaration about the invalidity of the order dated 26-5-1976 and sale deed dated 23-8-1976 and that the period of limitation of three years had to be computed from 26-5-1976 and, therefore, the suit filed on 22-8-1988 was hopelessly barred by time. This contention was rejected by the High Court as also by the trial court. The contention urged on behalf of the plaintiff and which has been accepted is that the suit is basically for possession of the property based upon title and the sale deed dated 23-8-1976 and the order dated 26-5-1976 being void ab initio and without jurisdiction, a plea about its invalidity can be raised in any proceedings and it is not necessary to claim any declaration and thus Article 65 which deals with suit for possession based on title would be applicable from the date, the possession of the defendant becomes adverse to the plaintiff. The High Court held that in view of the order and the sale deed being null and void and without jurisdiction, the same have no existence in the eye of the law and the plea about invalidity of these documents can be raised in any proceedings and no separate declaration is necessary to be sought. It held that the suit for possession would be governed by Article 65 of the Limitation Act, 1963. It was further held that the suit is within time even from the date when the possession of the suit property was taken on the execution of the sale deed on 23-8-1976.

“As already noticed, in *Bhim Singhji* case [(1981) 1 SCC 166] Section 27(1) insofar as it imposes a restriction on transfer of any urban or urbanisable land with a building or a portion of such building, which is within the ceiling area, has been held to be invalid. Thus, it has not been and

cannot be disputed that the order dated 26-5-1976, was without jurisdiction and a nullity. Special Leave Petition (C) No. 24821 of 2018 Page 20 of 35 Consequently, the sale deed executed pursuant to the said order would also be a nullity. It was not necessary to seek a declaration about the invalidity of the said order and the sale deed. The fact of the plaintiff having sought such a declaration is of no consequence. When possession has been taken by the appellants pursuant to void documents, Article 65 of the Limitation Act will apply and the limitation to file the suit would be 12 years. When these documents are null and void, ignoring them a suit for possession simpliciter could be filed and in the course of the suit it could be contended that these documents are a nullity. In Ajudh Raj v. Moti [(1991) 3 SCC 136] this Court said that if the order has been passed without jurisdiction, the same can be ignored as a nullity, that is, non-existent in the eye of the law and it is not necessary to set it aside; and such a suit will be governed by Article 65 of the Limitation Act. The contention that the suit was time-barred has no merit. The suit has been rightly held to have been filed within the period prescribed by the Limitation Act.”

This can be summarized as follows:

	Article 59	Article 65
Subject Matter	Suit to cancel/set aside an instrument/decreed or rescind a contract.	For possession of immovable property based on title.
Nature of Sale Deed	Voidable transactions. (prima facie valid but obtained by fraud/cheating/coercion)	Void ab initio (null from the beginning)
Limitation Period	Three years.	Twelve years.
Starting point of Limitation	When the owner knows about his entitlement to cancel or rescind the sale deed.	When the possession of the defendant becomes adverse to that of the plaintiff.

COURT’S STANCE: RATIO DECIDENDI & JUDGEMENT

The court observed that there was no witness who could substantiate the case of the defendant about the completion of the payment of the sale consideration, which proved the averments made by the plaintiff about not receiving the same. It further upheld the first appellate court’s observation about findings of the transaction in question being void due to absence of the delivery of sale consideration. The absence of the sale consideration made the sale deed void which wouldn’t need to seek cancellation of the same, the court delivered. The court deduced that the plaintiff didn’t execute the sale deed. The plaintiff had the right to file a lawsuit to recover possession of the property based on her ownership title within the period of 12 years from the time she realized the defendant’s possession was against her ownership rights. The sale deed of 1973 which the defendants had relied on was *void ab initio*. The High Court was

wrong in its application of Art. 59 of the Limitation Act instead of Art. 65 of the said Act (as ruled by the district court).

CONCLUSION

Shanti Devi v. Jagan Devi firmly settled that the limitation period in fraudulent sales deed disputes depend on whether the deed is **void** (in that case, Art. 65 is applicable having 12 years of limitation period) or **voidable** (Art. 59 is applicable having 3 years of limitation period). This judgement reinforces the protective intent of limitation laws while strengthening property rights protection and reduced misuse of provisions of limitation.

RP LEGAL