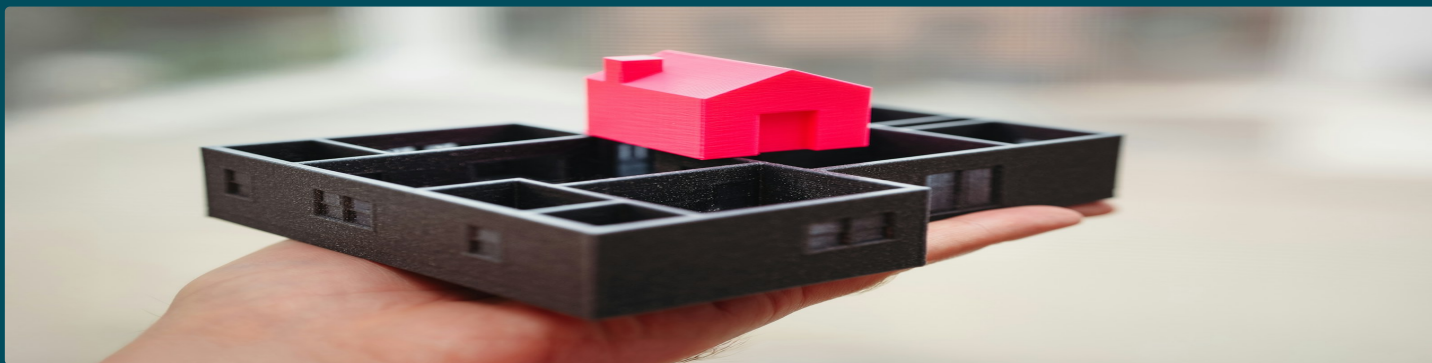




REAL ESTATE

The Inalienability Of Ownership: A Jurisprudential Analysis Of Tenancy And Title Preservation In India

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Introduction

In the complex landscape of Indian property law, few subjects generate as much litigation, or as much misconception, as the distinction between long-term possession and absolute ownership. A common myth claims that simply living in a place for many years, even across generations, confers ownership rights. However, the foundational tenets of the Indian legal system, supported by the Transfer of Property Act, 1882, the Indian Evidence Act, 1872, and recent decisions by the Supreme Court of India, clarify that a tenant's status is essentially one of permission and cannot automatically change to ownership over time.

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The Jurisprudential Separation: Ownership vs. Possession

The conceptual distinction between ownership and possession forms the basis of property jurisprudence. Jurists, primarily John Salmond and Frederick Pollock, describe ownership as involving an exhaustive "bundle of rights". The bundle of rights comprises the right of possession, the right of enjoyment, the right of management, the right to the income of the property, and, importantly, the right to dispose of the property.

When a property owner signs an agreement for a lease, they do not assign the whole title. Rather, they retain a single "stick" of the title, which is the right of enjoyment (demise), to lease to the tenant for an agreed period. However, "the reversionary interest, which represents the absolute title of property after the expiration of the lease, always acceded to the landlord." Since the tenant has only a limited interest in the property, they can never win the absolute title disregarding how long they occupy it.

The Statutory Mandate: The Transfer of Property Act, 1882

The main law governing property transactions in India is the Transfer of Property Act (TPA). The Act clearly differentiates between a "Sale" and a "Lease." Under Section 54, a sale is defined as the transfer of absolute ownership for consideration. In contrast, Section 105 defines a lease as the transfer of a limited "right to enjoy" such property, made for a certain time or even in perpetuity.

Even a lease in perpetuity does not mean a transfer of title. It simply means the right to use the property continues indefinitely, as long as the tenant meets their contract obligations, mainly paying rent. Additionally, Section 108(m) of the TPA requires the tenant to return the property to the landlord in the same condition it was received when the lease ends. This legal obligation to restore the asset is conceptually incompatible with a claim of ownership. If an occupant is legally bound to return an item, they are, by definition, not its owner.

The Doctrine of Estoppel: Section 116 of the Indian Evidence Act

Section 116 of the Indian Evidence Act, 1872, codifies the principle of estoppel, which is the most important evidentiary barrier to a tenant claiming ownership. This section establishes that no tenant of immovable property shall be permitted, during the continuance of the tenancy, to deny that the landlord had a valid title at the commencement of the relationship.

The purpose of this “cardinal estoppel” is to maintain the stability of property relations. The tenant acknowledges the landlord’s authority when they take possession of the property. Tenants are prohibited by law from approbating and reprobating, i.e., taking advantage of possession while contesting the very title that allowed them to enter. The courts have consistently held that this estoppel does not expire with the lease. Tenants are “gripped” by Section 116 if they are in possession, and they cannot contest the landlord’s title unless they first “clear their feet” and turn over the property.

The Persistence of Status: “Once a Tenant, always a Tenant”

Indian jurisprudence adheres to the settled maxim: “Once a tenant, always a tenant”. This principle dictates that the legal character of a person’s possession, once established as a tenancy, remains static unless altered by a specific, legally valid contract or by the operation of law.

The passage of time, whether five years or fifty, does not change this status. In *M.R. Sawhney v. Doris Randhawa*¹, the Delhi High Court highlighted that a tenant’s status continues until a registered contract changes it. This means that even if a tenant stops paying rent or occupies the property for a century, they stay a “tenant at sufferance” or a “statutory tenant,” but they do not become an owner.

The Adverse Possession Barrier: Permissive vs. Hostile

Tenants often try to claim ownership through the doctrine of “Adverse Possession” under the Limitation Act, 1963. This law allows an occupant to claim title if they have maintained “hostile, open, and continuous” possession for more than 12 years. However, the Supreme Court has repeatedly stated that this doctrine does not apply to tenants.

The main requirement for adverse possession is that the occupation must be “hostile” to the owner from the very beginning. A tenant’s possession is “permissive,” as it is granted with the landlord’s consent. In a significant 2024 ruling, *Brij Narayan Shukla v. Sudesh Kumar*², the Hon’ble Supreme Court confirmed that “defendants will not acquire adverse possession by simply remaining in permissive possession, no matter how long that may be.” For a tenant to start a claim of adverse possession, they must first clearly reject the landlord’s title. This action is often blocked by Section 116 of the Evidence Act. Afterward, they must maintain that hostile position for 12 years.

A Definitive Affirmation: Analyzing the 2025 Judicial Mandate on Title Integrity

In a final verdict pronounced in September 2025, the Supreme Court, in *Jyoti Sharma v. Vishnu Goyal*³, addressed a case where the tenancy had begun in 1953. The successors of the original tenant contended that their seven-decade-long possession and the fact that they had stopped paying rent many years ago gave them ownership rights by adverse possession.

However, the Supreme Court has rejected this argument completely. The court said that “long-term occupation pursuant to a rental agreement shall not presume ownership rights”. The court added that since the tenancy had begun with the signing of a rent agreement deed, the tenant is estopped from questioning the ownership of the landlord. This decision has caused huge relief to the property owners across the country, as it has confirmed that 70 years of occupation will not alter the ownership title.

Statutory Protections vs. Proprietary Interests

Many tenants benefit from protections under different state Rent Control Acts. These laws were created as social welfare measures to stop unfair evictions and control rent. This protection often includes the “heritability” of tenancy, which allows a tenant’s heirs to keep living in the property.

The distinction between a “proprietary interest” and a “statutory right to remain” has been carefully considered by the courts. Instead of having an ownership stake in the property, a statutory tenant has a “personal right” to occupy the space, which is a legal protection. The ultimate evidence that the landlord is still the superior title holder is the landlord’s ability to evict such a tenant on certain grounds, such as structural damage or a legitimate personal need.

The Modern Paradigm: The Model Tenancy Act, 2021

The Model Tenancy Act was introduced by the Indian government in 2021 to further formalize property relations and professionalize the rental market. To establish an unquestionable record of the permissive nature of the occupation, the Act requires written, registered tenancy agreements for all new rentals.

The Model Act creates faster ways for landlords to regain possession of their property. It punishes holdover tenants by letting landlords charge double or even quadruple the rent if tenants refuse to leave after the lease ends. This change emphasizes that a tenant is only a temporary occupant of an owner's property. The law supports the owner's right to get their property back.

Conclusion: The Sanctity of the Absolute Title

The journey from the Transfer of Property Act of 1882 to the Supreme Court rulings of 2025 has been steadfast in upholding the inviolability of ownership of property in the Indian subcontinent. The rights accorded to the tenants in the Transfer of Property Act are substantial from the standpoint of maintaining societal order, but they do not, and cannot, promote ownership transfer on the mere time factor.

Ownership is a set of rights that stays intact as long as the owner does not execute a registered transfer. For tenants, the law is clear that your right is to possess and use the property, not to own it. The doctrines of estoppel, the persistence of status, and the high standard for adverse possession provide strong legal protection for the landlord's title. Whether a tenant occupies a property for five years or fifty, they are, according to the law, still a tenant. They must respect the landlord's title and eventually return possession to the rightful owner.

Legal Significance

This analysis highlights the judiciary's strong protection of absolute title against the passage of time. It makes sure that the contractual nature of tenancy stays a lasting barrier to acquiring property rights. By determining that permissive possession does not fit with the "hostile animus" needed for adverse possession, the law removes the danger that long-term occupancy, whether lasting years or generations, could turn into ownership.

The 2025 judicial ruling in *Jyoti Sharma v. Vishnu Goyal* strengthens the national property market by confirming that even seven decades of stay do not remove the "cardinal estoppel" under Section 116 of the Indian Evidence Act. This law requires tenants to recognize the landlord's authority during their stay. This ruling is an important protection for the rental system. It shifts attention to formal agreements under the Model Tenancy Act, 2021. It also confirms that ownership is a fundamental right that cannot be taken away simply because someone has lived there for a long time.

For further details write to contact@indialaw.in

1. 2008 Supreme (Del) 237 ??
2. [2024] 1 S.C.R. 60 : 2024 INSC 9 (Civil Appeal No. 7502 of 2012) ??
3. (2025 INSC 1099 page 1 of 10 ca @ SLP (c) no.29500 of 2024 non-reportable) ??

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