



REAL ESTATE

Void Deeds Are Nullities: Supreme Court Strengthens Property Rights Against Fraud

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Introduction

One of the enduring questions in property law concerns the distinction between void and voidable sale deeds and the consequences each carries for limitation and possession. A void deed is a legal nullity, incapable of conveying title, whereas a voidable deed is facially valid until annulled by a competent court. This distinction is not merely academic, as it directly determines whether a party must sue for cancellation within three years under Article 59 of the Limitation Act, 1963, or whether the rightful owner may simply rely on Article 65, which grants twelve years to bring a suit for possession on the strength of ownership.

A recent Supreme Court judgment, *Shanti Devi (since deceased) through LRs v. Jagan Devi & Ors.*^[1], has revisited this issue and provided clarity. In resolving a dispute over agricultural land in Haryana, the Court reaffirmed that fraudulent deeds not executed by the rightful owner and unsupported by consideration are void ab initio, and thus suits based on such deeds fall under Article 65, not Article 59. The decision settles the particular case and strengthens the legal position on how void transactions should be treated in limitation law and property disputes.

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Factual Background

The dispute concerned agricultural land measuring 31 kanals and 4 marlas in Village Bisar Akbarpur, Tehsil Nuh, District Gurgaon. The plaintiffs, asserting one-third ownership, alleged that the defendant, Shanti Devi, fraudulently procured a sale deed dated 14.06.1973 in her favour. They maintained that they had never executed the deed, had received no consideration, and that the document was obtained through impersonation. On this basis, they sought an injunction restraining the defendant from interfering with their possession or, alternatively, joint possession along with a declaration that the sale deed was void.

Shanti Devi, in her written statement, denied the allegations and asserted that the deed was validly executed with full consideration of ₹15,000, of which ₹9,000 was allegedly paid before execution and ₹6,000 before the Sub-Registrar. She contended that the deed, being registered, carried out a presumption of due execution and that the plaintiffs' suit, filed in 1984 after more than a decade, was barred by limitation.

Court Findings

The **Trial Court** in 1991 dismissed the suit, holding that the plaintiffs failed to prove fraud and that the claim was time-barred, having been filed 11 years after the deed. In 1996, the **First Appellate Court** reversed this finding, declaring the deed void since it was never executed by the plaintiffs and applying **Article 65 of the Limitation Act**, which provides 12 years for suits based on title. The **Punjab and Haryana High Court** in 2018 upheld the plaintiffs' claim but applied **Article 59**, treating it as a case for cancellation within three years from discovery of fraud. The **Supreme Court later corrected this error**, holding that while the outcome was right, the governing provision was Article 65, since the impugned deed was void ab initio.

Issues Before the Supreme Court

The Supreme Court was required to decide whether the plaintiffs' suit, filed 11 years after execution of the deed, was barred by limitation. This turned on whether the deed was void or merely voidable and whether Article 65 or Article 59 of the Limitation Act

applied.

Legal Principles and Analysis

The Court reiterated the vital distinction between void and voidable transactions. A **void deed** is a nullity in law it conveys no title, creates no rights, and does not require cancellation. A **voidable deed**, on the other hand, appears valid on its face but remains subject to annulment at the instance of an aggrieved party. This distinction is central to limitation: **Article 59** of the Limitation Act governs suits for cancellation of voidable instruments, whereas **Article 65** applies when the deed is void ab initio and the rightful owner seeks possession based on title.

Void Sale Deeds, Limitation, and Possession

Under Indian property law, a **void sale deed** is treated as legally non-existent because it lacks essential ingredients of a valid transfer such as consent, authority, or consideration. Such a document conveys no title and creates no rights in favour of the transferee. Since cancellation applies only to **voidable deeds** (which are facially valid until annulled), the true owner of property covered by a void deed is not required to seek its cancellation. Instead, the owner may simply ignore it and bring a suit for possession based on ownership.

This distinction is crucial for limitation: **Article 65 of the Limitation Act, 1963** governs suits based on title where the impugned deed is void, providing a 12-year period from the date adverse possession begins. By contrast, **Article 59** applies to voidable instruments, requiring cancellation within three years of discovering fraud or defect.

In *Shanti Devi v. Jagan Devi*, the Supreme Court reaffirmed that the disputed deed was void ab initio, as it had neither been executed with the plaintiffs' consent nor supported by consideration. The Court relied on earlier precedents, including *Prem Singh v. Birbal*^[2] (2006) and *State of Maharashtra v. Pravin Jethalal Kamdar*^[3] (2000), both of which held that fraudulent documents lacking authority or consideration are void and fall within Article 65. It also referred to *Kewal Krishnan v. Rajesh Kumar*^[4] (2022), which emphasized that under Section 54 of the Transfer of Property Act, the absence of consideration renders a sale deed void.

On the facts, the plaintiffs consistently denied executing the deed or receiving consideration. The defendant failed to substantiate the claim of valid execution, as key witnesses were either unavailable or unreliable. The husband of the defendant, who allegedly made the final payment, did not testify, further weakening her defence. The evidence thus established that the deed was fraudulent and unsupported by consideration, rendering it void ab initio.

Decision of the Supreme Court

The Court held that the High Court erred in applying Article 59 of the Limitation Act. Since the impugned sale deed was **void ab initio**, the applicable provision was **Article 65**, which allows a 12-year period for suits based on ownership from the date possession becomes adverse. As the plaintiffs had instituted their suit within 11 years, it was well within limitation. While affirming the decrees of the First Appellate Court and the High Court in favour of the plaintiffs, the Court corrected the legal basis on limitation and accordingly dismissed the appeal.

Conclusion

The Supreme Court's ruling in *Shanti Devi v. Jagan Devi* carries significant implications for property and limitation law. It reiterates that fraudulent sale deeds not executed by the rightful owner are void ab initio and need no cancellation. While registration raises only a rebuttable presumption of validity, such presumption collapses in the face of fraud, impersonation, or absence of consideration. Since consideration is an essential element of a valid sale under Section 54 of the Transfer of Property Act, its absence renders a deed void rather than voidable. For limitation, the Court confirmed that Article 65 governs suits based on ownership where the deed is void, granting rightful owners 12 years to reclaim possession. By harmonizing these principles, the Court has reinforced the security of ownership rights against fraudulent encroachments while ensuring fairness in the application of limitation law.

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^[1] CIVIL APPEAL NO. 11795 OF 2025 (SLP(C) No. 24821/2018)

^[2] (2006) 5 SCC 353

Frequently Asked Questions

What is the difference between a void and a voidable sale deed?

A void deed is a legal nullity, incapable of conveying title, whereas a voidable deed is facially valid until it is annulled by a competent court. The distinction determines which limitation period applies to a dispute over the deed.

What is the limitation period to challenge a void sale deed?

A suit founded on a void deed falls under Article 65 of the Limitation Act, 1963, which gives twelve years to bring a suit for possession on the strength of ownership, not Article 59, which prescribes three years to cancel a voidable deed.

Must the rightful owner sue to cancel a fraudulent deed within three years?

No. Where a deed is void ab initio (for instance, not executed by the rightful owner and unsupported by consideration) the owner can rely on Article 65 (twelve years) rather than the three-year cancellation period under Article 59.

What did the Supreme Court hold in *Shanti Devi v. Jagan Devi*?

The Court reaffirmed that fraudulent sale deeds not executed by the rightful owner and unsupported by consideration are void ab initio, and that suits based on such deeds fall under Article 65 of the Limitation Act, not Article 59.

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