

Doctrine of Lis Pendens

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Context : The Supreme Court has reaffirmed that once a transaction is found to be impacted by the **doctrine of lis pendens**, the defences of being a bona fide purchaser or lacking notice of the sale agreement do not apply.

About the Doctrine of Lis Pendens

- Lis pendens refers to a "**pending legal action.**"
- The doctrine implies that during ongoing litigation, no new interests or rights should be introduced regarding the property in question.
- It is based on the principle that the property involved in a legal dispute should not be transferred to a third party during the case.
- This doctrine is governed by Section 52 of the Transfer of Property Act, 1882, which states that any transfer of immovable property during litigation does not affect the rights of the parties involved.
- The eventual judgment by a competent court binds the purchaser who acquires the property during the pending case, even if the purchaser was unaware of the litigation. The doctrine aims to safeguard the interests of the parties engaged in a property dispute.

Effect of the Doctrine of Lis Pendens

- The rule of lis pendens does not invalidate the transfer but subjects it to the outcome of the litigation. Thus, anyone purchasing the property during the pendency of a suit is bound by the court's judgment, even if they were not a party to the case or were unaware of the legal proceedings.

Conditions for Applicability

The Supreme Court has laid out the conditions for applying the doctrine under Section 52:

1. A suit must be in progress.
2. The suit must be filed in a court of competent jurisdiction.
3. The title or rights to an immovable property must be directly in question.
4. The suit must affect the rights of the opposing party.
5. One party must be transferring the property in question.
6. The suit must not be collusive or fraudulent.

Non-Applicability of the Doctrine

There are exceptions to the application of lis pendens, including:

- Sales made by the mortgager under their lawful authority.
- Cases where only the transferor is affected.

- Collusive proceedings.
- Incorrect or unidentifiable descriptions of the property.
- Situations where the property's title is not directly at issue, and alienation is permitted.



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