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INSUFFICIENTLY STAMPED DOCUMENT INADMISSIBLE UNLESS DEFICIENCY IS RECTIFIED

The Supreme Court (“SC”), in *Bidyut Sarkar* case,¹ held that an insufficiently stamped document can only be admitted into evidence after the deficiency in stamp duty and any applicable penalty has been paid.

Brief Facts.

In March 1999, Sashti Charan Banerjee (“**Banerjee**”) the original owner of a property, entered into an agreement to sell (“**AOS**”) with Kanchilal Pal (“**Pal**”) for sale of the property. Pal was responsible for developing the property, dividing it into plots, and selling them within a year. Upon receiving the sale proceeds, Pal was to pay the balance consideration to Banerjee, who would then transfer the land to the Pal and his nominees. In May 1999, Banerjee entered into an agreement to sell to Bidyut Sarkar and another (“**Buyers**”). Pal failed to make the payment within a year, the AOS would be cancelled. Pal filed case for specific performance of the AOS before the Trial Court (“**TC**”).

Pal’s Contentions.

The AOS stipulated that if Pal failed to make the payment within a year, the AOS would be cancelled.

Alleged that he invested a sum to develop the property and was in the process of purchasing a portion of the land from the tenants.

Claimed that Banerjee had already transferred the property to the Buyers *vide* a sale deed executed in May 1999, despite the existing AOS with him.

Banerjee’s Contentions.

Pal had coerced him into signing the AOS on March 29, 1999.

Denied Pal’s allegations stating that he had entered into an AOS of the property to the Buyers, culminating in the execution of a registered sale deed in May 1999.

The Buyers, in their written statement, also denied Pal’s claims and reiterated the facts presented by Banerjee.

Based on evidence, the TC ruled in favour of the Pal on several issues, including the validity of the AOS, cause of action and limitation. However, the TC dismissed the suit on the grounds that

¹*Bidyut Sarkar and Another vs. Kanchilal Pal(Dead) through Lrs. And another* (2024) SCC Online SC 2603.
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the AOS was inadmissible as evidence because it was not properly stamped. Pal challenged the decision before the Calcutta High Court (“**HC**”).

The HC allowed the appeal and dismissed the cross-objections filed by the Buyers. HC upheld the TC's findings in favour of the Pal's on all issues except the admissibility of the AOS. HC determined that the AOS was admissible because the Pal had expressed his willingness to pay the deficient stamp duty and any associated penalties. However, HC failed to acknowledge that the Pal had not taken any concrete steps to determine the amount or pay. Buyers challenged the Order passed by the HC before the SC.

Judgment & Reasoning.

The SC:

- Relying on *Ram Rattan*² and *Javer Chand*³ judgments, the SC analysed the relevant provisions of the Indian Stamp Act, 1899 (“**Stamp Act**”) including sections 35,⁴ 36,⁵ 40⁶ and 42,⁷ and concluded that the HC had erred in deeming the agreement to sell admissible without a thorough examination of the relevant statutory provisions of the Stamp Act.
- Highlighted the fact that the Pal had not initiated any proceedings to determine or pay the deficient stamp duty and penalties, despite expressing his willingness to do to the HC.
- Pal's failure to resolve the deficiency rendered the AOS inadmissible as evidence, ultimately leading to the dismissal of his suit.
- Allowed the appeals, overturned HC's ruling and reinstated the TC's decision to dismiss the suit.

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² *Ram Rattan (dead) by Lrs. vs Bajranlal and others*, (1978) AIR SC 1393.

³ *Javer Chand and others vs. Pukbraj Surana*, (1961) AIR SC 1655.

⁴ Instrument not duly stamped inadmissible in evidence.

⁵ Admission of instrument where not be questioned.

⁶ Collector's power to stamp instrument impounded.

⁷ Endorsement of instruments on which duty has been paid under sections 35, 40 or 41.