



MULLA ON THE TRANSFER OF PROPERTY ACT 1882 (8th ed. 1995). By R.K. Abichandani. N.M. Tripathi Pvt. Ltd. Bombay. Pp. cxxxi+1125. Price Rs. 650.

THE TRANSFER of property by act of parties has been an important activity influencing socio-economic life and human relationships. The Transfer of Property Act 1882, though not a complete Code on the law relating to transfer of property, includes the all important transactions like sales, mortgages, leases, exchanges, gifts and actionable claims. The Act is primarily applicable to transactions whereby the subject matter of the transfer is immoveable property although moveable property (goods) is also covered in case of gift, exchange and actionable claim. It is for this reason that the Act basically covers the transactions pertaining to 'Real Estate'. Though the transactions involving real estate in one's lifetime may be as few as to be counted on finger tips, but any of them can lead to the making or marring of that person. This can be seen from the fact that if a person is caught in the legal we even in his one time transaction of purchasing a house, it could not only be ruinous for him but also for future generations. In comparison, the risk factor is less dangerous when one is to transact in moveable property like purchase of a watch, air cooler, scooter or car. The significance of the Act relating to transfer of real estate becomes clear in this backdrop.

The book under review¹ is the eighth edition of the classic work of Sir D.R. Mulla which was first published in 1933. The 1882 Act was mainly based on the English law of real property and the Law of Conveyance and Property Act 1881. Despite th twelve amendments made in the Act from time to time, conflicting decisions on almost every provision of the Act were persisting. A special committee headed by S.R. Das was constituted in 1927 to review and revise the provisions of the Act. Dinshah Mulla (later Sir D.F. Mulla) was a member of the committee. Based on its recommendations the Transfer of Property (Amendment) Act 20 of 1929 was enacted. Although it was labelled as the Amending Act but in fact it was the exercise to overhaul the existing Act. Being associated with this overhauling exercise, it was in the fitness of things that Sir Mulla brought out his classic work on the Act in 1933.

Justice Abichandani's contribution is not only updating the subject-matter of the book but also revising it thoroughly is writ large from first to the last page. The addition of another 200 pages to the previous edition itself indicates the new incorporations in the book. The Addendum has updated the case law up to early 1995.

However, in section 41 relating to a transfer by an ostensible owner, the effect of Benami Transactions (Prohibition) Act 1988 has not received the consideration which it deserves. Only a passing reference has been made about the 1988 Act.²

1 R.K. Abichandani. *Mulla on The Transfer of Property Act, 1882* (8th ed. 1995).

2. *Id.* at 230-40.



What needs to be elaborated is the relevance and area of operation still open for the rule under section 41.

In chapter V on leases, the conceptual difference between lease and license has been extensively dealt with. However, the analysis would have been more fruitful if *United Bank of India v. Cooks and Kelvey Properties Ltd.*,³ *Nihal Chand v. Vimal Rastogi*,⁴ and *State of Punjab v. Brg. Sukhjit Singh*,⁵ would have been taken into account. The test for distinguishing a lease from license could be more clear to the reader in the light of these decisions. It would have been equally useful to point out and elaborate as to how the distinction between lease and license becomes crucial in cases of alleged sub-letting by a tenant under the Rent Acts.

The addition of some new sub-topics like legislative competence, *lis pendens* and temporary injunction, renewal or extension of lease, statutory restrictions on sub-letting, statutory transfers, notice of sub-mortgage, *etc.*, by the author has added to the existing utility of this book and will go a long way in clarifying these aspects which had hitherto been left unattended. Parallel titling of rights and liabilities of the seller and the buyer in a chart form⁶ provides a quick reference to the reader. The print and get up of the book are excellent. The refreshing scholarship of the author is reflected on every page. The book is a must for lawyers, judges and researchers. However, law students may find it difficult to afford it at its specified price.

D.N. Jauhar*

3. 1995 (1) R.C.R.9 (S.C.).

4. 1995 (1) R.C.R. 101 (S.C.).

5. (1994) (2) R.C.R. 66 (S.C.).

6. *Supra* note 1 at 379.

* B.A. (Hons.), LL.M., Ph.D., Reader, Department of Law, Panjab University, Chandigarh.