

FEBRUARY 2021. ISSUE 03
17-FEB-2020

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ADDRESS

Coimbatore Office

#49, West Club Road, Near
Vilvam Apartments, Race Course,
Coimbatore - 641 018.

High Court Office

#103, I - Floor,
Armenian Street,
Parrys, Chennai - 600 001.

Tiruppur Office

544, Room No.2, I-Floor,
Opp. to TKT Motors, Palladam
Main Road, Tirupur - 641604

DOCTRINE OF FIXTURES



+91 75400 75411



mail@wallcliffs.com



www.wallcliffslawfirm.com

Evolution:

The doctrine of fixture is evolved to define or view a thing which is chattel once but has later become a part of the land. In India, it is defined as a permanent attachment or fixed real property. This doctrine is invoked to fulfil the legal requirement to deal with the matter relating to determining the chattel and fixture.

Meaning:

Generally, fixtures mean the things which are physically attached to land become the part and property of the landowners. In Indian law, the movable property assumes to be the immovable property for the legal purpose is called fixtures. The things embedded in the earth or what is so embedded for the beneficial enjoyment which is regarded as immovable property. When a property is considered as a fixture any dealing with the property should possess the legal requirement to deal as immovable property. If the chattel is fixed to the soil or land by any means it is presumed to be an immovable property and as a fixture.

In English Law, chattels are also considered immovable property. Whatever is planted in the soil is belongs to the soil. Subsequently, when the chattel is fixed to the soil it becomes fixtures.

The Requirement To Consider The Chattels As Fixtures:

There are two modes to consider whether the chattel is a fixture. They are as follows.

Mode Of Annexation:

- If the chattel is affixed in the land without any other means it is not immovable property.



- The chattel must be fixed with nails or any other means.
- If there is an intention to make the chattel fixed in the land or soil or part of the land then it is an immovable property.

The Purpose Of Annexing:

- If the thing is attached to the land or soil for permanent enjoyment then it is presumed to be a fixture.
- When the attachment is made for the beneficial enjoyment of the landlord and the same is value to the land it shall be considered as the immovable property on considering the intention of the landowner.

Circumstances To Invoke The Distinction Between Chattels And Fixtures:

- When there is a dispute between a vendor and a purchaser.
- When the chattel becomes the part of the land and as a part of the mortgage.
- When there is a dispute between the beneficiary under a will of personal property and beneficiary of real property on the other hand.

Quiquid Planatur Solo Cedit:

The doctrine of fixture is founded on the doctrine Quiquid planatur Solo cedit which means whatever is attached to the land becomes the part of the land. Chattels when lost their temporary character and become permanent are determined as fixtures.

The doctrine is invoked to govern the matters between the landlord and the tenant, between the mortgage and the mortgagee who may lose their investment made in the land without application of the doctrine.



CASE LAWS

Case 1

Ismail Kani Rowthan v. Nazarali Sahib, 1904 MLJ 14 25.

Held -The maxim of the English law ' Quicquid inaedificatur solo solo cedit' has no application in India and that the established rule is that the lessee may remove at any time during the continuance of the lease all things which he has attached to the earth, provided he leaves the property in the state in which he received it'; implying thereby that there is thus in India even less reason than in England, for raising a plea of equitable estoppel against the landlord in the case of a lease for a term of years.

Case 2

Silambani Sri Chidambara Vinayagar Devasthanam v. Duraisamy Nadar And Anr., 1967 MLJ 2 181 .

Held - In Indian Law, the maxim quicquid in ecificatur solo, solo cedit has no application to the present case. The rule established in India is that of Section 108 of the Transfer of Property Act, Which provides that" the lessee may remove, at any time during the continuance of the lease, all things which he has attached to the earth; provided he leaves the property in the state in which he received it.

Case 3

Bishan Das & Others v. State Of Punjab & Others, 1961 AIR SC 1570.

Held -A person who bona fide puts up constructions on land belonging to others with their permission would not be a trespasser, nor would the buildings so constructed vest in the owner of the land by the application of the maxim quicquid plantatur solo, solo cedit. It is, therefore, impossible to hold that in respect of the dharmasala, temples and shops, the State has acquired any rights whatsoever merely by reason of their being on the land belonging to the State.



Case 4

State Of Madras v. Gannon Dunkerley & Co., (Madras) Ltd. AIR 1958 SC 560,

Held -The property in goods involved in the execution of a works contract does not pass as movables but on the theory of accretion on the principle quicquid plantatur solo, solo cedit i.e. whatever is attached to the soil, becomes part of it.

Case 5

Builders' Association Of India And Ors. v. Union Of India And Ors., 1989 SCC 2 645.

Held - The property in all materials and fittings once incorporated in or affixed to a building, will pass to the freeholder quicquid plantatur solo cedit. The employer under a building contract may not necessarily be the freeholder, but may be a lessee or licensee, or even have no interest in the land at all, as in the case of a sub-contract. But once the builder has affixed materials, the property in them passes from him, and at least as against him they become the absolute property of his employer, whatever the latter's tenure of or title to the land. The builder has no right to detach them from the soil or building, even though the building owner may himself be entitled to sever them as against some other person.

DISCLAIMER

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