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R.G. ANAND V. M/S. DELUX FILMS

-ALMAS WAFI KHAN

- **INTRODUCTION:**

This precedent-setting verdict of R.G. Anand Vs. M/s Delux Films¹ was about copyright law in India. The issue that arose here was whether the movie “New Delhi” infringed the copyright of the play “Hum Hindustani” because both works had a similar theme, and the film was made without the prior permission of the play's writer. The judgment in the case serves as precedent for copyright infringement of literary and dramatic works, as the apex court, i.e., the Supreme Court, laid down certain principles for determining infringement. The principles laid down here are still relevant.

- **FACTS OF THE CASE:**

The producer of several plays, dramatist and also playwright R.G. Anand (the appellant), in the case of R.G. Anand Vs. M/s Delux Films claimed that the “Hum Hindustani” play was written by him in 1953. It gained immense popularity when it was enacted in 1954, which made one of the respondents approach R.G. Anand to ask for a transcript of the “Hum Hindustani” play so he could create a movie out of it. R.G. Anand, i.e. the appellant, asked the respondent to attend the National Film Festival where the play was to be screened.

The respondent then visited the Film Festival and discussed with the appellant the possibility of turning the “Hum Hindustani” play into a movie. The respondent also informed R.G. Anand that he would notify him if he made the movie out of that play. But the appellant never heard back from the respondent.

In the year 1955, a movie titled “New Delhi” began filming by the respondent, which R.G. Anand claimed was based upon his play “Hum Hindustani”. But the respondent denied such

¹ R.G. Anand v. M/s. Delux Films, AIR 1978 SC 1613.

allegations. The film was launched in the year 1956, and after watching the movie, the appellant filed a suit against him regarding copyright infringement and stated that the theme of his play “Hum Hindustani” and the movie “New Delhi” was the same, i.e. ‘provincialism’.

- **ISSUES OF THE CASE:**

1. Whether the copyright owner is the appellant?
2. Whether the film ‘New Delhi’ violates copyright of the ‘Hum Hindustani’ play?
3. Whether the respondent infringed the appellant's copyright?
4. What is the relief that can be provided to the appellant and against whom?

- **LAW INVOLVED IN THIS CASE:**

1. **The Copyright Act, 1957:**

Section 13(1): This Section² states the works that are subject to copyright. It states that any original literary work, dramatic work, artistic work and musical work; Cinematograph Films; and sound recording.

Section 14: The definition of copyright is provided in section 14³. Copyright gives exclusive right to a person to produce work in a form, to grant a copy of work to the public, to make cinematographic films, etc.

Section 51: This Section⁴ defines “copyright infringement”. It states that infringement of copyright occurs when:

- A person uses the copyrighted work without prior permission of the owner
- Permits the use of any place for communication of a work for profit, and such communication amounts to infringement of a copyright.
- If a person imports infringing copies of a copyrighted work and produces them as his own.
- If a person portrays a replica of a copyrighted work as his own without the permission of the true owner of the work.

² The Copyright Act, 1957, s.13(1)

³ The Copyright Act, 1957, s.14.

⁴ The Copyrights Act, 1957, s.51.

- **JUDGEMENT:**

The apex court in this case supported the decision of the Delhi High Court, stating that the movie “ New Delhi” doesn’t violate the copyright of the “ Hum Hindustani” play. The court analysed the stories of both the play and the movie and hence reached to the conclusion. Due to this in-depth analysis, the court noticed the similarity between the two, i.e., the play and the movie were of the same theme, ‘provincialism’. However, the theme presented was totally different.

The court also observed the appellant's argument in his plaint to see why he believes the movie was similar to the play and hence his copyright was infringed. However, the court made a list of differences between the play and the movie and observed that the differences were more than the similarities brought by the appellant in his plaint. Also, the court observed that the similar things pointed out by the appellant were insignificant and didn’t bargain any notable aspect of the play.

The court also leaned upon the fact that copyright is provided upon an expression of an idea and upon the idea itself. Hence, through all these points, the apex court stated that the respondent here in this case was not liable for infringement of copyright.

- **ANALYSIS:**

After hearing both the parties' arguments and referring to the High Court decision, the Apex Court laid down the guidelines to determine infringement of copyright. The guidelines are as follows:

- 1. Idea- expression dichotomy**

An essential principle of copyright law is the idea-expression dichotomy principle. However, this principle was criticised for being vague and imprecise, but it is still considered a relevant principle of copyright and also an immense part of the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights)⁵. The principle is also defined under the WIPO Treaty of copyright⁶. The core proposition of this principle is that the idea should

⁵ Trade Related Aspects of Intellectual Property Rights, Art. 9(2)

⁶ WIPO Copyright Treaty, Art. 2

be different from the expression while proving copyright. It clearly states that the expression of an idea and not the idea itself can be copyrighted⁷.

The principle of idea-expression dichotomy recognises the fact that ideas have to be abstract and common for everyone. Hence, the manner in which these ideas are presented should be considered. The Supreme Court, to make it easy to understand, observed that the plays written by Shakespeare were basically based upon British and Greek Mythology. But the nature of the work is so novel that the end product becomes original. That's why Shakespeare's works are never termed as infringement of copyright.

2. Substantial similarity between the works:

Infringement of copyright is not mere copying of the work. But the owner of the work has to prove the 'protected element' has been infringed⁸. There can still be no direct evidence that can prove the work is infringed. Hence, the owner just has to prove and provide evidence that the work that is copied is substantially similar to the original work

Upon watching both the play and the movie, the court stated that there was no copyright infringement, as both had a similar theme, but it is not substantially similar to each other.

3. Clear and cogent evidence:

Here, in this case, the Supreme Court stated that infringement leads to privacy. Therefore, before concluding the work to be copyrighted, the court has to apply the principle stated above. Only after the principles are applied, and clear and cogent evidence is obtained, the court has to decide if there has been an infringement or not.

Hence, in this case, after all the principles were applied, the appellant couldn't produce any evidence of copyright infringement. Therefore, the court held that there was no copyright infringement.

⁷ Narell v. Freeman, 872 F.2d 907 (9th Cir. 1989); Warner Bros. v. American Broadcasting Cos., 654 F.2d 204 (2d Cir. 1981).

⁸ Nichols v. Universal Pictures Corp., 45 F.2d 119 (2d Cir. 1930)

4. Totality of the work should be considered:

The Supreme Court also observed that to prove substantial similarity between a play and a movie, it would be hard for the author to prove infringement. The court further stated that if the viewers get an impression that the film is totally copied from the play, it still can lead to infringement of copyright.

In this case, the court analysed both the stories and stated that both were totally different works from each other and the similarities were considered vague. The court further insisted that the viewer watching the film will have no clue that the film is copied by the play. Therefore, they held that there was no infringement.

• CONCLUSION:

The Supreme Court judgement in the case R.G. Anand v. M/s. Delux Films still has relevance in contemporary times. The court stated that both the play and the movie have certain similarities but not substantial ones. The court also held that copyright cannot be granted upon mere ideas but only upon the idea that is turned into tangible form. The Supreme Court laid the foundation by providing the principles that serve as precedent for future copyright cases.