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

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Case Name: R.G. Anand V. M/S Delux Films & Ors.

Citation & Year: AIR 1978 SC 1613

Date: 30th of August Year 2000

Court: Supreme Court of India

Case No.: Regular First Appeal No. 147-D of 1960

Judge Bench/Coram: Mr. I.D. Dua, C.J & Mr. Jagjit Singh, J., Hon'ble Justice Murtaza Fazal Ali, Hon'ble Justice Jaswant Singh, Hon'ble Justice R.S. Pathak

Case Type: Civil Appeal

Subject: Intellectual Property Rights, SECTION 1 COPYRIGHT ACT

Final Decision: The Appellants Claim was rejected **{Appeal Rejected}**

Petitioner: R.G. Anand.

Respondents: M/S Delux Films and Ors.

Introduction

The issue of copyright infringement of the owner of a work by another party is a major issue. And this becomes even more aggressive and critical when the works of both the parties have been created or are related to the common source or same plot. The basic determination of what constitutes a copyright infringement was not brought out before the case of **R.G. Anand V. M/S Delux Films and Others.** This is the main reason for this judgment to be a landmark one as it established a test to determine whether the claim made by the plaintiff that the work in the issue is a copy of the original work. This landmark judgment brought more clarity to the concept of the idea-expression dichotomy and made it clear that a copyright exists in the expression and not in just a mere thought/idea.

Background

The Copyright Act of India was enacted by the Parliament and came into force in the year 1957. When the cause of action arose in this case, there was no law present to guide regarding the test to constitute infringement. Thus, the Supreme Court was forced to be dependent upon the International Jurisprudence to bring up a decision to this case.

International Background

To decide the matter the Supreme Court was holding at hand, the court relied upon International authors and case laws. In the process of making these references, the court relied upon a book **"The Law of Copyright and Literary Property"** by Author **'Horace G Ball'** in which he states that the similarities between two works which are in question should be substantial to say that it leads to copyright infringement.

Statutory provisions discussed

1. Section 1(2) (d) of Copyright Act, 1911 (British)
2. Section 2 of the Copyright Act, 1911 (British)

Facts of the case

Procedural History: Before approaching the Supreme Court of India, the appellants, in this case, approached other courts in Delhi with their appeal. For the very first time, this case was brought to the Trial Court of Delhi. The appellants approached the court with an allegation of copyright infringement in a work created by them in the form of a play named 'Hum Hindustani.'. This allegation of infringement of copyright was on the respondents through their work in a motion picture named 'New Delhi.' The judge of Delhi District Court dismissed this suit by the appellant and held that as both the works are quite different, there is no infringement of copyright. After this dismissal, the appellants approached the High Court of Delhi so that the order passed by the District Court could be set aside. But, the Hon'ble High Court also confirmed the District Court's order made by the judge. Finally, the appellants then filed a Special Leave Petition against the order of Delhi High Court before the Hon'ble Supreme Court of India.

Factual Matrix: Diving in the actual story which gave rise to such circumstances leading to this case, we find that by profession the Appellant is an architect and play writer. On the

other hand, the profession of the respondents was a company producing films. What happens next is that the Appellant writes a play which is named **"Hum Hindustani"** in the year 1953. This play gets enacted in the year 1954 in New Delhi. The play gets a lot of success and being so successful this play gets re-staged in the years 1954, 1955, and 1956 in Calcutta at that time. Such huge success of the play gave birth to a desire in the Appellant's mind to get his play filmed. Later, the Respondent came to know about what the Appellant is intending to do with his play and due to this, they both met in New Delhi for the discussion of the listening of the play and further possibilities with it. In that meeting, the Appellant with a lot of desire explained the whole play to the Respondent. After listening to his play, the Respondent just listened to it for its sake and he didn't make any commitment in regards to its filming. After some time from the end of this meeting discussion, the Respondent created and released a movie with the name **"New Delhi."** This movie was released in the year 1956. The Appellant also watched this movie and after watching it he thought and understood that without his permission or consent, the Respondents had copied his play and made a movie on it. This gave rise to a 'Cause of Action' and the Appellant filed a case of Copyright Infringement before the District Court of Delhi. In his appeal he claimed before the court that the Respondents had copied his idea as both the play and the movie were based on the same idea of "Provincialism" and they both had striking similarities. But, in the judgment, the District Court after all the arguments rejected the claim made by the Appellant.

Main issues raised

1. Whether the movie 'New Delhi' is a copyright infringement of the play 'Hum Hindustani?'
2. Whether the Respondents by creating the movie have infringed the copyright of the Appellant?

Arguments involved

Arguments made by the Appellants: From the Appellant side, Mr. Andley was made to argue. In the favor of the Appellants, Mr. Andley argued that the District Court and High Court of New Delhi have not correctly applied the law and the order passed by them is totally against the legal principles settled and laid down by the Courts in America, England, and India. Moving further, the Appellants argue upon the similarities between the play and the movie. Appellants state that the similarity factor of the movie is so high with the play that an

irresistible inference and impression is left and the movie is just a direct copy of the play. The Appellants point out, various similarities present between the two works to prove their statement. Mr. Andley lays points to prove the similarities such as; both the movie and the play have a common idea of Provincialism featuring Punjabi and Madarasi families in both of them. Both the play and the movie consists of a scene where either one of the lovers makes an attempt to suicide and gets saved by another person. Other points presented is that the name of the father is Subramanium, the location set up is in New Delhi, and the girls are fond of dance and music in both the play and the movie. Such points act a proof for the Appellants to show that both the works have huge similarities and the movie is a copy of the play. As reasoning, the Appellants state that the Respondent was fully aware of the play and its storyline and he decided to make a movie only after listening to the play. And he created this movie by copying the play without their permission.

Arguments made by the Respondents: To speak in the favor of the respondents, Mr. Hardyal Hardy came forward. At the very beginning, he opposed the statement made by the Appellants and said that the law was applied correctly by the lower courts. Moving further with his arguments, he stated that there is no need for the present court to interfere with the findings of the Court of Facts. He then refused the claim made by the Appellants on the similarities found between the play and the movie. He stated that both works have a vast area of differences/dissimilarities in the context of spirit and events.

The Judgment

Justice Fazal Ali delivered the Judgment of the court. It was held by the House of Lords that though both the play and the movie were based on a similar idea of 'Provincialism' the similarities between them were not that vast. The court elaborates its holding by stating certain points of differentiation between the play and the movie such as; Only one side of 'Provincialism' during the marriage was shown in the play but the movie shows other sides too such as 'Provincialism' during renting outhouses. The play does not depict anything about dowry but the movie shows the evil of dowry. The claim made by the Appellants was rejected by the court on the basis that there may be certain similarities because of the same idea in both the movie and the play but it is a well-settled law that states that an idea cannot be copyrighted and for this, the court relied upon the judgment of ***N.T. Raghunathan & Anr. V. All India Reporter Ltd., Bombay.*** The court stated that if an ordinary individual saw the

play and the movie he would not presume it to be a copy of the play. The Appellants claim that their copyright is infringed cannot sustain as because there are vast differences between the movie and the play. The court in both the issues decided and favoured the Respondents and upheld the Judgment made by the High Court of Delhi. Finally, the court declared and held that there is no infringement of copyright.

Ratio Decidendi

The court in its decision gave the following reasoning:-

1. The court stated that there is no existence of copyright in a plot or an idea. It exists only in the arrangement or expression of that idea.
2. If two works are based on the same source, they are bound to have certain points of similarities. But the court must see and understand whether those similarities are substantial to constitute an infringement of copyright or not.
3. The court says that if an ordinary individual after seeing the work which is in issue in this case calls it a replica or copy of the original work then it is considered as an infringement.
4. It is allowed for works to be based on the same theme but it is to be represented differently. This is because they can constitute a new original work.
5. A negative intention of copying is depicted if the amount of dissimilarities is more than that of the similarities.
6. Violation of copyright can amount to an act of piracy if there is clear evidence to show piracy.

Obiter Dicta

There were certain observations made by the bench in this case. **Justice Fazal Ali** says that in the cases where the plaintiff is a play writer and has to prove copyright infringement against a particular movie, it becomes a difficult task for the writer of the play. This is because a movie is capable of expressing a wider variety of concepts and ideas as compared to a play. An infringement can only be constituted if after viewing both the movie and the play it gives an impression to the viewer that the movie is a copy of the play. **Justice Pathak** says that under this statement, the person who is under the advantage and takes the benefits of a work that is copyrighted can cover wider concepts and can make certain modifications here and there in the theme to present the dissimilarities from the original work. This way the court can miss

the disguise of plagiarism. He also states that if ever this case gets reopened in the present court, he may have a different view on it than the High Court. But as the Courts of Fact have rejected the claims made by the Appellant, the Court will not make any interference unnecessarily with the decisions made by them.

Conclusion

In the field of Copyright Law, the decision of the Court, in this case, acts as a landmark judgment. The courts of India still follow the guidelines laid down by the court in this case. It was held in this case that copyright does not subsist in an idea. This is also laid down in Section 13 of the Copyright Act, 1957 which gives three categories in total in which copyright can subsist. All three categories talk about work and an idea is not included in it. The Bombay High Court relied upon this present decision in the case of **Mansoob Haidar V. Yash Raj Films.** This was the first Indian case by the Supreme Court to decide what constitutes infringement in copyright.