

# SECURITIZATION AND IT'S JUDICIAL INTERPRETATION

Parvez Alam Khan\* & Priyawansh Depawat\*\*

*Just as the electronics industry was formed when the vacuum tubes were replaced by transistors, and transistors were then replaced by integrated circuits, the financial services industry is being transformed now that securitized credit is beginning to replace traditional lending. Like other technological transformations, this one will take place over the years, not overnight. We estimate it will take 10 to 15 years for structured securitized credit to replace to displace completely the classical lending system -not a long time, considering that the fundamentals of banking have remained essentially unchanged since the middle Ages.*

Lowell L Bryan

## 1. MEANING OF SECURITIZATION

Securitization as a financial instrument has been in practice in India since the early 1990s essentially as a device of bilateral acquisitions of portfolios of finance companies.<sup>1</sup> Securitization means the process through which an issuer creates a financial instrument by combining other financial assets and then marketing different tiers of the repackaged instruments to investors or a process of accumulating the assets having a fixed income stream into one product and converting them into marketable securities for a subsequent sale to investors.<sup>2</sup> The process can encompass any type of financial asset and promotes liquidity in the marketplace. The term "securitization" is derived from the fact that the forms of financial instruments used to obtain funds from the investors are securities. In early 2006, the RBI came out with guidelines on regulatory capital treatment for securitization – these dealt a severe blow to the securitization market.<sup>3</sup>

Securitization is a structured financial process that involves pooling and repackaging of cash-flow-producing financial assets into securities, which are then sold to investors through Special Purpose Vehicle (SPV), alternatively known as a special purpose entity

\*B.A. LL.B. (Hons.)-IV Year, Dr Ram Manohar Lohiya National Law University, Lucknow

\*\*B.A. LL.B. (Hons.)-III Year, Dr Ram Manohar Lohiya National Law University, Lucknow

<sup>1</sup> <http://www.vinodkothari.com/secindia.htm>. Last accessed on 20.01.10

<sup>2</sup> Justice D. P., *Banerjee Securitization Reconstruction of Financial Assets and Enforcement of Security Interest* ( Wadhwa & Co. 2003)

<sup>3</sup> Justice D. P., *Banerjee, Securitization Reconstruction of Financial Assets and Enforcement of Security Interest*, (Wadhwa & Co. 2003)

(SPE) or special purpose company (SPC)<sup>4</sup> and the securities which are the outcome of securitization processes are termed asset-backed securities (ABS).<sup>5</sup>

Securitization, in its most basic form, is a method of financing assets. Rather than selling those assets “whole,” the assets are combined into a pool, and then that pool is split into shares. Those shares are sold to investors who share the risk and reward the performance of those assets.<sup>6</sup>

After 1991 our economy witnessed various reforms and enactments. The need for the legal framework on securitization can be traced back way from 1991 onwards where various committees recommended to have a law on securitization and enforcement. This was followed by the enactment of the Securitization and Reconstruction of Financial Assets & Enforcement of Securities Interest Act, 2002 (SARFESI Act). The Act encompasses the areas of: securitization of financial assets; reconstruction of financial assets; recognition to any security interest created for due repayment of a loan as security interest under the Securitization Act, irrespective of its form; banks and financial institutions have the power to enforce the security without intervention of the courts; setting up the Central Registry for registration of the transaction of securitization, reconstruction and creation of security interests.<sup>7</sup>

In 2002, India enacted the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 (SARFAESI). In commercial practice, the SARFAESI has been very irrelevant for real life securitizations. Most securitizations in India adopt a trust structure – with the underlying assets being transferred by way of a sale to a trustee, who holds it in trust for the investors. A trust is not a legal entity in law – but a trustee is entitled to hold property that is distinct from the property of the trustee or other trust properties held by him. Thus, there is isolation, both from the property of the seller, as also from the property of the trustee. The trust law has its foundations in UK trust law and is practically the same.<sup>8</sup>

There are certain Standard categories of securitizations that are:-

- Mortgage-backed securities (MBS), which are backed by mortgages;
- Asset-backed securities (ABS), which are mostly backed by consumer debt;

<sup>4</sup> *Securitization: The Financial Instrument of the Future*, By Vinod Kothari - Business & Economics - 2006

<sup>5</sup> <http://www.securitization.net/>. Last accessed on 15.01.10

<sup>6</sup> <http://www.investopedia.com/terms/s/securitization.asp>. Last accessed on 15.01.10

<sup>7</sup> By Vinod Kothari, *Securitization Reconstruction of Financial Assets and Enforcement of Security Interest* (2<sup>nd</sup> Ed. 2007)

<sup>8</sup> <http://www.riskglossary.com/link/securitization.htm>. Last accessed on 23.01.10



- Collateralized debt obligations (CDO), which are mostly backed by corporate bonds or other corporate debt.

## 2. NEED FOR SECURITIZATION IN INDIA

In the Indian context, securitization is the only ray of hope for funding resource starved infrastructure sectors like Power. For power utilities burdened with delinquent receivables from state electricity boards (SEBs), securitization seems to be the only hope of meeting resource requirements. As on December 31, 1998, overall SEB dues only to the central agencies were over Rs. 184 billion.

Securitization can help Indian borrowers with international assets in piercing the sovereign rating and placing an investment grade structure. An example, albeit failed, is that of Air India's aborted attempt to securitize its North American ticket receivables. Such structured transactions can help premier corporate to obtain a superior pricing than a borrowing based on their non-investment grade corporate rating.<sup>9</sup>

After the merger of India's largest financial institution ICICI with ICICI Bank, ICICI, faced with SLR and other requirements, is actively seeking to launch a CLO to reduce its overall asset exposure. It appears to be only a matter of time before other Public Financial Institutions merge with other banks. Such mergers would result in the need for more CDOs in the foreseeable future.<sup>10</sup>

## 3. DEVELOPMENTS IN SECURITIZATION LAW

In 2002, India enacted the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 (SARFAESI).

### **The RH Patil Committee report, Dec 2005**

The Finance Minister, in his 2005 Budget speech, emphasized the need to develop market for bonds and securitized instruments, and accordingly, a High Level Expert Committee was constituted under the Chairmanship of R H Patil to make recommendations. Among other things, the Committee made several recommendations about ironing out the legal difficulties relating to securitization transactions. The Committee dedicated a whole section to securitization transactions. The report of the Committee was released in December 2005.<sup>11</sup>

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<sup>9</sup> John Henderson, Jonathan P. Scott, *Securitization*, - Business & Economics - 1988

<sup>10</sup> [http://www.vinodkothari.com/india\\_article\\_iimc.pdf](http://www.vinodkothari.com/india_article_iimc.pdf). Last accessed on 20.01.10

<sup>11</sup> *Supra* 8

## **The Securities Contracts (Regulation) Amendment Bill, Dec 2005**

The Securities Contracts (Regulation) Amendment Bill, 2005 was introduced in the Lok Sabha on 16.12.2005 pursuant to the announcement in Budget 2005-06 regarding provision of a legal framework for trading of securitized debt including mortgage backed debt and amendment of the definition of "securities" under the Securities Act.<sup>12</sup> The Bill stands referred to the Standing Committee on Finance. This Bill, once enacted, on one hand will allow for the listing of securitized debt on stock exchanges and therefore, make the market more liquid, yet, at the same time, it also seeks to insert a new section 17A in the Securities Contracts Regulation Act whereby regulatory powers on securitization transactions are sought to be conferred on SEBI.

## **Securitization guidelines of the RBI, Feb 2006**

One of the most significant developments relating to securitization in the recent past is the issuance of securitization guidelines by the RBI in Feb 2006. There is no question that regulatory guidelines on securitization were most necessary, and that the market was making rampant misuse of securitization with substantial first loss support provided to most transactions without bothering at all about regulatory capital. However, the RBI guidelines have several shortcomings.<sup>13</sup>

## **India Securitization Summit, July 2009**

The National Institute of Securities Markets (NISM) hosted the first ever Summit on Securitization in India, the INDIA SECURITIZATION SUMMIT 2009, on July 08, 2009 in Mumbai.<sup>14</sup>

The Indian Securitization Industry holds potential to remain an attractive source of capital for the Indian Financial Industry. Today, this market has been acutely affected by sentiments of global crisis. Further, the intrinsic inadequacies in the Indian debt markets have also compounded to the shrinking trade volumes and numbers. The India Securitization Summit 2009 offers an opportunity to review the industry, the structure, the inefficiencies, the potentials and the future. Securitization in India holds large potential as an alternative financing option and could be a driver of economic growth.

<sup>12</sup> <http://www.livemint.com/2009/06/17215834/A-future-for-securitization.html>. Last accessed on 20th January, 2010

<sup>13</sup> [http://www.nism.ac.in/index.php?option=com\\_content&view=article&id=68&Itemid=71](http://www.nism.ac.in/index.php?option=com_content&view=article&id=68&Itemid=71). Last accessed on 24.01.10

<sup>14</sup> Supra 8



## 4. JUDICIAL INTERPRETATION OF SECURITIZATION LAW

There have been various legislations already enacted till date which deal with the procedures, the steps to be followed by the secured creditors to recover the amounts lent to the borrowers, the jurisdiction of the various courts, and all other relevant provisions considered necessary in this regard.<sup>15</sup> Enacting a legislation does not solve our problem, but the way it is interpreted in a court of law, also makes a difference to it. Judicial interpretation may lead to a number of changes in the enactment and also draw attention to the loopholes that have been left while enacting the legislation. Such interpretations by the Courts of law are necessary to keep the enactment up to date with the changing times. Hence, judicial decisions contribute significantly to the law of the land.

With the changing times, SARFAESI Act as well as DRT Act has been interpreted in various cases according to the need of each case. It is not just the objects of the enactment that have to be kept in mind while deciding the cases, but also further amendments have to be taken into consideration, as also any other enactment, which would help in deciding what the correct step is, that would do justice to the parties to the dispute. The different provisions of these securitization acts have been the topic of serious discussions in various judgments.<sup>16</sup>

With the amendments brought about by SARFAESI Act, 2002, a number of other acts playing a major role in Securitization Act were also amended, like Sick Industrial Companies Act, 1985 and Companies Act, 1956.<sup>17</sup> Judicial interpretations upon few topics are as follows:-

### VALIDITY OF THE ACT

Right after the SARFAESI Act was enacted, in the year 2004, the constitutional validity of the Act was challenged in the landmark case of *Mardia Chemicals Ltd. Etc. vs. Union of India (UOI) and Ors*,<sup>18</sup> where a loan was given by IDBI Bank to Mardia Chemicals, and the provisions of section 13 of the Act were to be applied in recovering the amount. Though the court upheld the validity but the court brought about various changes in the enactment while deciding the case. Like the provision of deposit of 75% under Section 17(2) of the Act was declared ultra vires and was substituted, Section 13(3-A)

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<sup>15</sup> Supra 13

<sup>16</sup> Vinod Kothari, *Securitization Reconstruction of Financial Assets and Enforcement of Security Interest*, (2<sup>nd</sup> Ed. 2007) p. 106

<sup>17</sup> Justice D. P., *Securitization Reconstruction of Financial Assets and Enforcement of Security Interest* (2003) p. 48

<sup>18</sup> AIR 2004 SC 2371

was inserted providing an opportunity to the borrower to raise objections against the notice issued to him; the Civil Courts though was denied jurisdiction under section 34 of the Act to try cases, yet the judgment gave power to the Apex Court to try certain cases of civil rights. Proceedings under Section 17 of SARFESI Act were held to be initial proceedings not the appellate proceedings. The court also observed that any provision if arbitrary and violative of Article 14 and other principles of constitution shall be invalid.

Thereafter the validity of this Act was again, challenged in the case of *Kalyani Sales Company and Anr. v. Union of India (UOI) and Anr*,<sup>19</sup> but the contention was dismissed on the grounds that once a question has been decided by the Court, the same cannot be raised again for the same purpose. With regards to possession, the Court observed that possession under the SARFESI Act [Sec 13(4)] shall be only symbolic possession not actual physical possession.

Though the later judgment was criticized as law for the second time may be challenged upon several other grounds as law and its application changes while time changes. Nevertheless, the land mark observation was made by Supreme Court regarding forceful recovery of possession by stating that possession merely has to be symbolic possession and not actual. It is now a law as per Art 141 of constitution.

## CIVIL COURT JURISDICTION

There after another issue for the jurisdiction of Civil Court and scope of Section 34 that bars civil court to try cases covered under SARFESI Act was in dispute and court reached to final position after several steps that are like:

The *Mardia Chemicals Ltd. Etc. vs. Union of India (UOI)* and Ors<sup>20</sup> case vested powers in the civil courts to try certain cases of civil rights nature.

This point was given a new angle in the case of *Arasa Kumar and Anr. v. Nallammal and Ors.*, where issue of civil court's jurisdiction and Section 34 of SARFAESI Act have been discussed. In this case, the petitioners filed a suit for partition of the joint family property in a civil court, which was in the name of one of the defendant who had taken a loan on the said property. The creditor bank was also made one of the respondents, who wish to sell the same property. The petitioners wanted to have their share of the property by filing the said suit. The court decided that the powers of Section 34 would be limited in certain cases, such as when the parties to the suit are not party to the liabilities created

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<sup>19</sup> AIR 2006 P&H 107

<sup>20</sup> AIR 2004 SC 2371



in favour of the creditor, or when the dispute cannot be resolved under the Act and the like. Nonetheless, Civil Court was decided to have jurisdiction in this case since only this court could decide the rights of the parties in respect of the property.

A similar case was the case of *Krishna and Anr. v. Kedarnath and Ors.*<sup>21</sup>, where UCO Bank had given loan by mortgaging some properties, which later on due to borrowers' default had been taken up for sale in public auction. At the same time the plaintiffs (borrower and his brother) filed the suit for the partition of the joint family properties, including the mortgaged properties to the Bank. The court decided the case throwing light on the fact that not only can a Civil Court decide cases of civil nature, but also that proceedings of a same case on different grounds can be carried on simultaneously before a Civil Court as well as DRT.

In the case of *Indian Bank v. ABS Marine Products Pvt. Ltd.*<sup>22</sup>, the jurisdiction of a Civil Court to hear a case by the borrowers against the creditors which was independent of a suit filed before DRT by the creditors to recover the amount was in question. It was decided that though the provisions of the DRT Act are mandatory in regard to the jurisdiction of the Civil Courts, yet two suits of the nature as mentioned above can be brought together before the DRT only in circumstances where there is a connection between the two, to such an extent that the decision given in one would affect the other case as well and the two parties are willing to have them disposed off together under the same proceedings.

Finally in the case of *Mohan Lal and Anr. v. Dwarka Prasad and ors.*, where the court held that civil rights include right to pre-emption, redemption of mortgage, etc. and thus the bar under Section 34 of Securitization Act is no bar to Civil Court in such matters. The Court decided that after the cut-off date i.e. the date after the expiry of the notice under Section 13(2) of the Act, the Court can neither entertain any suit nor can grant any injunction, and if it does provide any injunctions, the same will not be binding, except to the cases of partition of ancestral joint Hindu Family property.

Also the amended Section 424A of Companies Act said that no reference can be made under 424A of Companies Act, if action has been taken under section 13(4) of SARFAESI Act.

## CONFLICT OF REMEDIES

In *Kalyani Sales Company and Anr. v. Union of India (UOI) and Anr.*<sup>23</sup>, which dealt

<sup>21</sup> AIR 2006 Kant 21

<sup>22</sup> AIR 2006 SC 1899

<sup>23</sup> AIR 2006 P&H 107

with the issue of conflict of remedies, the court decided that the provisos of Section 19 of DRT Act in this regard are mandatory and the two remedies cannot be exercised at the same time, the creditor can apply the doctrine of election to decide which remedy is preferred by him. This is also in compliance with principle of natural justice.

This was reiterated in the case of *Kamaldeep Synthetic Ltd., by Managing Director V. Nandakumar v. Industrial Development Bank of India Ltd. by Deputy General Manager, the Authorised Officer*<sup>24</sup>, where the petitioner had taken loan from respondent-bank. Subsequently, respondents filed an application under Section 19 of DRT Act, 1993 claiming a huge amount before Debts Recovery Tribunal (DRT). During pendency of matter before DRT, SARFAESI Act came into force and respondent-bank issued notice under Section 13 of the SARFAESI Act to recover the amount. The court decided that proceedings needed to be withdrawn under the DRT Act before filing any application under the SARFAESI Act, thus helping in avoiding multiplicity of proceedings, and speeding up the process of resolution of disputes and thus ensuring dispensation of justice to the people.

Later the landmark case of *Transcore v. Union of India (UOI) and Anr*<sup>25</sup>, reversed the above judgments. Here, Indian Overseas Bank filed O.A. in DRT, Chennai for recovery of dues from Transcore Co.; thereafter it also issued a notice to co. under sec 13(2) of the SARFAESI Act. Under the amended Section 19(1) of DRT Act, banks were allowed to withdraw application from DRT in order to take action under SARFAESI Act, if no action has been taken till date. Bank issued a possession notice under sec 13(4) and thereby has taken possession. Court decided that remedies under both the acts are complimentary to each other and not inconsistent. Doctrine of Election is only applicable in inconsistent remedies not in additional remedies, thus the above mentioned doctrine is not applicable in such cases and the creditors have a right to take action under either one or both Acts simultaneously as per their discretion. But it also empowered Civil Court to try certain cases.

In the Transcore case, the justification given was that just as the procedures under DRT Act are times consuming, similarly the procedure for withdrawal of applications would take time too, leading to the detriment of the creditors. However we do not agree with this judgment because by this judgment the rights of the borrower were jeopardized as he had to face double proceedings for one default.

However the granting of powers to a civil court to try certain cases was a valid decision, because though the DRT is the authority to try such cases, but the powers given to it are

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<sup>24</sup> [2007] 139 CompCas 52(Mad)

<sup>25</sup> AIR 2007 SC 712



very limited. Also DRT being a newly constituted tribunal, a civil court would be able to decide cases in certain situations in a much better and efficient way.

## POSSESSION OF PROPERTY

The DRT Act and the SARFAESI Act contain provisions regarding the possession of the assets by the secured creditors after giving notice under Section 13(2) or under any other similar circumstances. There are rules in this regard as well. But whether the term possession would mean symbolic possession or actual possession is not specified anywhere. The courts in each judgment where this question has been raised have decided accordingly.

In *Kalyani Sales Company and Anr. v. Union of India (UOI) and Anr*<sup>26</sup>, it was decided that only when a borrower is in possession of the property can physical possession of the same be taken by the creditors. If the assets are in possession of a third party, he cannot be dispossessed by the creditors; they can only have symbolic possession of the property in that case. If they wish to have actual possession, they can only acquire it by following the due process of law. This position was reiterated in *Transcore v. Union of India (UOI) and Anr.*

In the case of *Hutchison Essar South Ltd. v. Union Bank of India*<sup>27</sup>, the same was decided when the rights of a third party in genuine possession of the secured asset as a lessee/tenant were challenged. The petitioner was leased property by the second respondent. On the failure of the second Respondent to clear the dues, the First Respondent being the secured creditor has initiated enforcement measures under the Securitization Act. This decision saves a bonafide holder from being deprived of his rights, as he enters into an agreement with the borrower unaware of his intentions, and hence should not be punished for his default in repayment of loans.

However in cases where the aggrieved borrower files an application under Section 17 of the SARFAESI Act, within 45 days of taking possession, whether that would mean physical or symbolic possession, this question was raised in the case of *UCO Bank, Churcgate Branch through Mr. K Venkatachalam v. Kanji Manji Kothari and Co., a Partnership Firm and Ors.*<sup>28</sup>, where the court decided that the provision under Section 17 which gave a 45 days' time would mean 45 days from symbolic possession or physical possession, whichever case causes injury to the borrower. It also decided on the point

<sup>26</sup> AIR 2006 P&H 107

<sup>27</sup> SA-178/2007 – DRT-III, Chennai

<sup>28</sup> 2008 (110) Bom L R 744

that law of limitation is applicable to both - DRT Act as well as SARFESI Act.<sup>29</sup>

Possession should include both kinds of possession as physical possession at all times may sometimes negatively affect the rights of certain people who are innocent third party attached to the property but are not the borrowers. At the same time giving discretion to the creditors to acquire physical possession by following the due process would give them a right to acquire the property in cases where the borrowers do not have the right intention in dealing with the property.

## COURT FEES

In the case of *Mardia Chemicals Ltd. Etc. vs. Union of India (UOI) and Ors*<sup>30</sup>, as regards the court fee, the provisions of Section 17(2) were repealed on the grounds of being arbitrary and in violation of Article 14. The same was repealed. Thereafter by the SARFAESI (removal of difficulties) Order, 2004, rule 3 of DRT rules was to be applied in cases of court fee. However since the amendment of the SARFAESI Act in 2004, the provisions of Section 17(1) are now applicable in this regard. This was upheld in the case of *Transcore v. Union of India (UOI) and Anr.*

In the case of *Kalyani Sales Company and Anr. v. Union of India (UOI) and Anr*<sup>31</sup>, as regards the court fee, it was decided that since there are no rules under the SARFAESI Act to govern the procedures for implementation of the Act, the DRT rules will govern the same for the time being, and so the fee of Rs. 250/- under the DRT Rules would be applicable in this regard.

## Right to objection by borrower for notice issued under sec 13(4)

When section 13(3-A) was inserted in the Act by the decision of the *Mardia Chemicals Ltd. Etc. vs. Union of India (UOI) and Ors* Case, the aim was to allow the borrower to raise a contention against the notice issued to him, so as to give him a chance to be heard.

But all the steps have to be taken in a formal manner, and any casual or informal communications or negotiations would not be counted as objections/reasoning under Section 13(3-A). This point was emphasized on in the case of *V. Shanmugam v. Union Bank of India, Nungambakkam Branch*<sup>32</sup>, where the respondent-bank provided a loan to

<sup>29</sup>Justice D. P., Banerjee, *Securitization Reconstruction of Financial Assets and Enforcement of Security Interest*, (2003) p. 25

<sup>30</sup> AIR 2004 SC 2371

<sup>31</sup> AIR 2006 P&H 107

<sup>32</sup> AIR 2008 Mad 280



M/s. Adworld, a partnership firm, as also to Karvin Corporation- a corporation having a quarry business, which was also started by M/s Adworld. When the borrowers defaulted in the payment of the amount, the Bank issued notice under Section 13(2) of the SARFAESI Act.

The right given to the borrowers under section 13(3-A) is sometimes misused by them where they raise irrational and unreasonable objections with a motive to delay the proceedings, however such objections hold no ground and are dismissed by the court, as decided in the case of *Bharti Enterprises (through its proprietor) v. United Commercial Bank (through its Chairman-Cum—M.D.) and Ors.*<sup>33</sup>

In the case of *Gajula Exim (P) Ltd. v. Authorized Officer, Andhra Bank, Main Branch and 2 Ors.*<sup>34</sup>, the question of whether the land is to be recognized as in accordance with the actual characteristics it possesses or according to the use it is being put to. The court decided that it is not the potentialities of land but its present characteristics that are to be taken into consideration, and hence the land though initially being an agricultural land, was declared as non agricultural land since it was being used by the creditors for the work of the sea food industry.

## CONCLUSION

The securitization market in India, though in its infancy, holds great promise especially in the MBS area. While more complex securitization transactions and public issuance of securitized paper are still a distant dream, appropriate legislation and investor education can give the securitization market in India a much-needed thrust.

The laws of Natural Justice are to be applied by a court while deciding any case, because these are the laws of the land (*lex locie*) which are applicable to all in all situations. The two main laws of natural justice that have to be followed are *Audi Alteram Partem* (No one can be condemned unheard) and *Nemo Debet Esse Judex in Propria Sua Causa* (No one can be a judge in his own cause).

The powers given to the creditors under the Securitization Acts can be a good example of the second law. A creditor has the power to decide when the borrower is unable to clear his dues and issue notice to him in this regard and acquire possession of the property. It is not implied that every creditor would be biased, but then again, the person making these decisions is a part of the creditor's institution and hence may hold certain biases towards the company. These powers to decide should be only with

<sup>33</sup> 2008 (3) JCR 73 (Jhr)

<sup>34</sup> AIR 2008 AP 184

the tribunal which is a neutral authority and would decide a case according to the facts of the case and the laws involved.

However the inclusion of Section 13(3-A) after the Mardia Chemicals case, also confers some powers on the borrowers to raise objections on the actions of the creditors and demand reasons for the same. This gives them a right to be heard, and present their side of the case as well, thus complying with the first law of natural justice.

The laws of natural justice cannot be denied to any person, even if an enactment forbids the application of any other law in relation to that Act. This fact was well established in the case of *Stan Commodities Pvt. Ltd. through its Managing Director, Pawan Kumar Poddar v. Punjab and Sind Bank through its Chairman and Ors.*<sup>35</sup> . In the said case, it was decided that the declaration of a borrower's assets as non performing assets can be done only after informing the borrower, so as to resolve any disputes as also give an opportunity to the borrower to justify his default. Emphasis was once again laid on the provisions of section 13(3-A) and it was decided that it is mandatory for the creditors to answer the objections of the borrowers raised against the notice issued by them.

Thus every aspect of the Securitization Acts that has at different times raised doubts in the minds of the people and created any sort of uncertainty has been discussed by the courts in different judgments and decided upon to remove these uncertainties, thus making the law more clear and understandable.

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<sup>35</sup> AIR 2009 Jhar 14