

**“Difference between Obiter Dicta and Ratio Decidendi<sup>1</sup>”**

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**ABSTRACT**

Every law student in their life as a student or as a professional has to read case laws and precedents. Hence, they need to read and understand how to read a judgment. Every judgment given by the court has many parts. It will discuss the existing laws, facts of the case, the contention of the parties, and the final judgment. But the part which forms the precedent is not the whole judgment. The precedent can be understood by the law of the ratio decidendi of the case. There is a part of the judgment that will be called obiter dictum. We have to learn in the earliest time of our career what these two are. We have to learn the difference between the two words which are constantly used by the legal community. In the present times, where everything is online, a new system of finding ratio and obiter has evolved. One needs to just enter the case name or citation and the software will help you in getting the ratio decidendi of the case. But finding the ratio and obiter is an art and not a mechanical process. Dependence on the online medium might degrade the quality of the art. Therefore, this is an attempt at explaining the difference between Ratio Decidendi and the Obiter Dictum. The article also includes the methods of finding the ratio decidendi. This article has been written to do an in-depth study of the ratio decidendi and the obiter dictum.

**Key Words:** Ratio Decidendi, Obiter Dictum, Difference

**WHAT IS RATIO DECIDENDI?**

From time to time, different jurists, judges, and academicians have tried to explain what ratio decidendi is. Professor Goodhart wrote about this topic in his article *Determining the Ratio Decidendi of a Case*. He published his article in the year 1930. One of the easiest definitions of Ratio Decidendi is “**reasons for the decision**”. However, limiting oneself to this definition will mean that we are following the narrowest possible interpretation of the words. The ‘reason’ of the decision of the court is not the facts, laws, or the orders of the case. The reason is the step that a judge took in order to resolve the case. It is the necessary steps that the judge needs to take in order to reach the conclusion that the judge reached. It must be related to the issue of the case. The ratio decidendi does not originate from the dispute of the facts but the dispute of the laws. It is ratio decidendi that lays down the precedent regarding any law or issue. It is quite ironic that when a ratio has multiple reasoning behind it, all of that reasoning will be considered valid. The ratio decidendi can be found in many ways in any judgment. These forms are usually- common

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law rules, interpretation of the statute, or interpretation of the common law rules. There is a different type of benches of judges in India, where difference is regarding the number of judges appointed. Usually, the number of judges is more than 1 on the bench. In order to make a ratio binding, it must be backed by the majority of the judges. Different judges may present different judgments, but they must have some reasons in common. The ratio decidendi can be of two types- Descriptive ratio, and Prescriptive Ratio. The descriptive ratio is the main reason which has guided or helped the court in reaching the final decision. It is the original ratio and it lays the path for future cases. Meanwhile, the prescriptive ratio lays down the interpretation of the descriptive ratio. Two different cases will rarely have a similar set of facts. Due to this, a problem regarding the future application of the precedent set arises. Here the descriptive ratio is a little changed by the use of the level of generality.

In order to understand the proper application and meaning of the Ratio Decidendi, we will have to learn what the level of generality is. The 'level of generality' acts as the transformation of a judgment into future judgments. This transformation occurs in the form of precedent. But the precedent may be completely useless until a case arises which has similar facts. Hence, there arises the need for the level of generality. It is the determination of the similarity or difference which will be found acceptable in terms of the old case and the new case.

Let us understand this with the help of an example. One of the very famous cases from the United Kingdom is the *Donoghue vs. Stevenson*.<sup>2</sup> We will be studying the same case for our examples. In the above case, the House of Lords was dealing with the manufacturer of a ginger beer. One of their consumers had found a snail in the sealed bottle of ginger beer. Hence, the question that the House of Lords faced was: whether the manufacturer of the beer was liable to the consumer if the consumer had fallen ill after drinking the beer which was contaminated by the snail. The House of Lords held the manufacturer of the ginger beer liable.

If one just uses the simplest of the interpretation, they will conclude that the precedent set by the case will be followed in future cases when the case had a similar case. So, if we even replace the company's title, the facts change and it will be a major problem to decide whether the case is applicable or not. But the judgment is relevant for the cases related to the cases where some negligence has been done by the company.

### **WHY IS RATIO DECIDENDI IMPORTANT?**

Ratio decidendi is important in judicial precedents because they act as the legal guideline underlying the choices in a specific case. Ratio Decidendi lay down the precedent of the future cases. They are considered the most important part of a judge's discourse. The case laws or precedents were and still are considered as sources of law around the world. The idea of

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<sup>2</sup> [1932] UKHL 100

precedent is based on the Latin principle of stare decisis. The principle states that if something has been decided by the court in the past, there is no need to change it. In simpler terms, what the principle says that follow the common law and don't attempt to change it.

**OBITER DICTA:**

Obiter Dicta is usually seen as normal statements made by the court which are not part of the ratio decidendi. Laying down the law by LexisNexis talks about the obiter dicta as

*“Frequently during the course of a judgment, judges discuss the proposition of laws from previous cases. These recitations provide a useful foundation for the reasoning of the judge’s decision. But the statement of judges will not act as ratio or obiter until they receive the endorsement of the judge<sup>3</sup>.”*

Hence, one can say that any statement which is made during the course of a judgment that does not fall under any categories is obiter dicta<sup>4</sup>.

Our Indian courts have given interpretation about the word obiter dictum. The first major case is the Mohandas Issaradas vs. A.N. Sattanathan<sup>5</sup>. The court talked about obiter dictum as the opinion expressed by the judges in the court during the time, they pronounce the judgment. But these statements must not have any importance in the judgment. Obiter dicta are not important constituents for arriving at the decision but are only helpful in helping the circumstances. A statement that is obiter dictum, is just incidental remarks and nothing else. Obiter dictum was again discussed in Sarwan Singh Lamba vs. Union of India<sup>6</sup>. The Supreme Court talked about the value and legal weightage of obiter dictum. The court said that in normal circumstances, the obiter dictum of the court for any case is expected to be followed. It was also held that the obiter dictum made by the Supreme Court has considerable weightage. But it will depend on the kind of the type of dictum. Another important case is Madhav Rao Jivaji Scindia vs. Union of India<sup>7</sup>. The court held in the case that it is difficult to consider a word, clause, or expression as a full exposition of law. This is so because the word, clause, or expression does not answer the direct questions of the law of the case in the hand.

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<sup>3</sup>Catriona Cook, Robin Creyke, Robert Geddes, David Hamer, Tristan Taylor, Laying Down the Law (LexisNexis Australia, 9th Ed, 2015)

<sup>4</sup>The Hon Justice Michael Kirby, ‘Precedent – Report on Australia’ (Speech delivered at the International Academy of Comparative Law Conference, Utrecht, The Netherlands, 17 July 2006)

<sup>5</sup>Sarwan Singh Lamba v. Union of India, AIR 1955 Bom 113

<sup>6</sup>Sarwan Singh Lamba v. Union of India, 1995 SCC (4) 546

<sup>7</sup>Madhav Rao Jivaji Rao Scindia v. Union of India (AIR 1971 SC 530)

## HOW TO FIND RATIO DECIDENDI?

Finding ratio decidendi is an art and not a mechanical process as often thought by people normally. One acquires the skill gradually by the way of practice. The process of extracting or finding the ratio decidendi is called the process of abstraction. This has been highlighted by courts in various cases. In the S.I. Rooplal vs. Lt. Governor through Chief Secretary, Delhi, and others<sup>8</sup>, the court talked about the same in detail. The honorable court held that even though all the courts in the country were to follow law declared by the Supreme Court, it was the duty and responsibility of the court to find out the ratio of the case. The question of ‘how’ was discussed a little in the Delhi Administration v Manohar Lal. The court said that the ratio decidendi had to be ascertained by the analysis of the facts of the case. The court needs to find the major premise and minor premise of the case. The major premise consists of the pre-existing rule of law. The minor premise is “*the material facts of the case under immediate consideration*”.<sup>9</sup> There are two methods of finding ratio decidendi as per the National Judicial Academy. The first one is the conventional method and the other one is the inversion test. The conventional method lays down certain guidelines which are to be read to understand what might constitute the ratio in any judgment. These guidelines are as follows:

- a. The ratio decidendi must be arising from a dispute of law.
- b. The part must be necessary for determining law.
- c. It must be in direct relation to the issue.
- d. It must have been argued and decided on due consideration.

The second method is the inversion test which is also known as the Wambagh test. It was propounded by a professor at Harvard Law School. The inversion test asks us to reverse or negate the proposition of law that has been put forward by the judge in any case. Then one must check if the reversal would have altered the actual decision. If the answer to this question is yes, then it means that proposition is the part of the ratio decidendi. If there would have been no impact of the reversal, then it will not be considered as the ratio. This method has been applied by the supreme court in the State of Gujarat v. Utility users Welfare Association<sup>10</sup>.

## WHAT IS THE DIFFERENCE?

The basic difference between the two parts of a judgment is the basis of their importance or legal value. Ratio Decidendi lays down laws for the future and are of high importance. Meanwhile, Obiter Dictum does not carry that much legal authority. The Supreme Court has been contradicting itself in terms of its judgment on the same topic. The ratio decidendi has a binding effect meanwhile the obiter dictum is of persuasive effect.

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<sup>8</sup> S.I. Rooplal and another v. Lt. Governor through Chief Secretary, Delhi and others, A.I.R. 2000 SC 594

<sup>9</sup> Delhi Administration (Now NCT of Delhi) v. Manohar Lal, (2002)7 SCC 222

<sup>10</sup> State of Gujarat vs. Utility Users' Welfare Association, Civil Appeal No.14697 of 2015

Ratio decidendi are the reasons behind the decision given by the court. But the obiter dictum is the normal statement that may help one in understanding the circumstances which led to the decision of the court.

Let us try to understand the difference between the obiter dicta and the ratio decidendi with the help of a very famous example. There exists legislation by the title of *Dog Act 1947*. Section 6 of the said act says that: ‘A person may bring an action against the owner of a dog if the dog enters land owned by that person.’ Elizabeth is the owner of a meadow and has brought up action under S. 6 of the said legislation. The case has been filed against a certain individual named Kit Walker. Elizabeth complained that Kit had allowed his pet wolf to walk on the meadow of Elizabeth. She had given him repeated warnings but he did it to cause distress to Elizabeth and her rabbit. The legal point was whether the domesticated wolf can be considered as a dog under section 6 of the dog act. The court held that Elizabeth was entitled to bring the case to court. This right was recognized as Elizabeth was the rightful owner of the meadow. But it was held that the provisions of the act clearly state that they deal with ‘domesticated dogs’ under section 6. In the present case, the animal was the wolf. The wolf had not been domesticated, still, it was a rare incident that someone was domesticating it. Hence, Devil was not considered as the ordinarily domesticated dog.

The Ratio Decidendi of the present example: The term ‘dog’ under section 6 of the act “*means only a dog of a type which is ordinarily domesticated*”. Hence, the act did not cover the wolf which has been domesticated.

Obiter Dictum in the present scenario: In a situation where Elizabeth had not paid off the mortgage, it was not possible to bring the case by both Elizabeth and Rural Bank as co-plaintiffs.

### **CONCLUSION:**

Any person interested in the law needs to understand what precedent is. It is not always the case that one may find the answer to a legal query in books only. To understand the application of the text and to solve the query, one must read legal precedents. Every judgment is made up of 2 major parts. Obiter Dictum and Ratio Decidendi. Ratio Decidendi is the reasoning behind the judgment. It tells everyone the reason why a particular conclusion was reached by the court. What are the things that guided the honorable court in pronouncing the judgment in the manner it was? Obiter Dictum is the statement that a court makes while pronouncing the judgment. These statements don’t hold any legal sanction or don’t lay any new law. But these statements may help helpful in understanding the condition of the case. They act as a supporting ladder in understanding the ratio decidendi. The ratio decidendi lay’s down the case law for the future meanwhile obiter dictums just providing help in understanding the judgment.