

Supreme Court: An Issue Finally Decided Cannot Be Reopened in a Second Round of Litigation

The Supreme Court applied res judicata and finality to bar a renewed argument that the buyer should have sued for specific performance instead of using Section 77 of the Registration Act, because the same issue had been decided in 1989.

Supreme Court civil-procedure analysis
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Case: Civil Petition for Leave to Appeal No. 2413-L of 2025
Court and date: Supreme Court of Pakistan | 17 September 2026
Bench: Justice Muhammad Ali Mazhar and Justice Shahid Bilal Hassan
Result: Leave refused; petition dismissed; concurrent decrees maintained

The ruling in one sentence

The Supreme Court of Pakistan held that a legal issue conclusively decided between the same parties in an earlier round cannot be argued again in later proceedings over the same dispute; res judicata and the broader doctrine of finality barred a second challenge to the buyer's statutory suit under Section 77 of the Registration Act, 1908.

The reported judgment is *Kalu, deceased through legal heirs v Abdul Rasheed, deceased through legal heirs and others*, Civil Petition for Leave to Appeal No. 2413-L of 2025. Justice Shahid Bilal Hassan authored the judgment for a bench comprising Justice Muhammad Ali Mazhar and Justice Shahid Bilal Hassan. It was decided on 17 September 2026.

The registration dispute

The controversy concerned registration of a sale deed. Abdul Rasheed claimed an earlier purchase and presented the instrument for registration before the Sub-Registrar. After registration was refused, he used the statutory remedy under Section 77 and filed a civil suit seeking an order for registration.

The trial court decreed the suit. The appellate court dismissed the opposing side's appeal, and the Lahore High Court, Multan Bench, declined to interfere with the concurrent decisions in revision.

The petitioners then approached the Supreme Court and argued that Abdul Rasheed should have filed a suit for specific performance instead of proceeding under Section 77. They also referred to delay in the Section 73 application and the existence of two sale deeds.

The decisive earlier order from 1989

The same dispute had already reached the Supreme Court in Civil Petition No. 534 of 1985. On 26 March 1989, a two-member bench expressly rejected the argument that specific performance was the buyer's only remedy.

That order held that the Registrar's refusal to direct registration of the earlier sale deed gave Abdul Rasheed a statutory right to approach the civil court. The determination involved the same parties, the same dispute and the same legal objection.

The 2026 bench therefore did not treat the petition as presenting a fresh question. It asked whether a point already conclusively settled by the Supreme Court could be reopened decades later in another

round of the same litigation.

Why res judicata barred the renewed argument

Section 11 of the Code of Civil Procedure embodies res judicata: a valid and final determination between the parties cannot be relitigated on the same issue in later proceedings.

The rule protects a successful party from repeated litigation, avoids inconsistent decisions and preserves public confidence in the judicial process. It also prevents court time from being consumed by controversies already resolved.

The Supreme Court referred to *Habib-Ur-Rehman v Abdul Karim*, reported as 2025 SCMR 1262, which describes res judicata as claim preclusion and emphasizes that no person should be vexed twice for the same cause.

It also relied on *Messrs Khurshid Soap and Chemical Industries v Federation of Pakistan*, reported as PLD 2020 Supreme Court 641, where res judicata was described as a principle of peace.

Finality extends beyond technical repetition

The Court also invoked the wider doctrine of finality. A litigant cannot avoid the substance of res judicata by reformulating an argument or bringing it at a later procedural stage.

Once the highest court has resolved the exact objection in the same controversy, the judicial process must end unless a legally recognized basis such as fraud, mistake or lack of jurisdiction is properly pleaded and established.

The judgment cited *Muhammad Raqeeb v Government of Khyber Pakhtunkhwa*, reported as 2023 SCMR 992, which treats repeated reopening of a past and closed transaction as an abuse of process.

No such exceptional basis was established here. The 1989 order had not reserved the issue or left it open for future argument. It directly considered and rejected the specific-performance objection.

Section 77 remained the settled statutory route in this dispute

The Court did not undertake a new abstract comparison between a suit for specific performance and a Section 77 suit. That comparison had already been made in the earlier proceedings.

For these parties and this controversy, the operative legal position was settled: refusal by the Registrar gave the buyer a statutory right to approach the civil court under the Registration Act. The petitioners could not obtain a second adjudication merely by repeating the rejected objection in the present petition.

This distinction matters. The judgment is primarily an authority on res judicata and finality, not a universal ruling that Section 77 replaces specific performance in every registration-related dispute.

The final order

The Supreme Court held that no question requiring interference under Article 185(3) of the Constitution arose. It dismissed the petition for leave to appeal, refused leave, vacated any interim order and made no order as to costs.

The three concurrent decisions in favour of the respondent therefore remained intact.

Practical effect for civil litigation

Before raising a legal objection, counsel should examine every prior order in the same dispute, including leave-refusing orders and earlier interlocutory rounds. The decisive question is not only whether the present suit has a new number, but whether the same issue between the same parties has already received a final judicial answer.

A party seeking to escape finality must plead and prove a recognized exception. General dissatisfaction, a new advocate, a different formulation or the passage of time does not reopen a concluded matter.

For courts, identifying the precise issue decided earlier is essential. Res judicata should not be applied merely because two cases concern the same property; the earlier determination must actually cover the

point now raised. In Kalu, that identity was exact and recorded in the 1989 Supreme Court order.

What the judgment does not hold

The judgment does not decide that every registration dispute must be brought only under Section 77. The remedy question was already settled for these parties and could not be reopened.

It does not make every observation in an earlier case *res judicata*. The earlier decision must be valid, final and determinative of the same material issue between the relevant parties.

It does not eliminate recognized challenges based on properly established fraud, mistake or lack of jurisdiction.

It also does not independently decide the validity or ultimate legal effect of every sale deed. Its controlling conclusion is that the already decided remedy objection was closed.

The controlling procedural principle

Litigation is not an unlimited series of attempts to obtain a different answer to the same question. Once a competent court, particularly the Supreme Court, conclusively decides an issue between the parties, the law treats that determination as final so that rights, judicial authority and the administration of justice remain stable.

This commentary is independent legal analysis for research and general information. The complete judgment, 1989 Supreme Court order, earlier pleadings, statutory record and later judicial treatment should be checked before reliance in proceedings.