P.Jyothimani vs Unknown

Author: P.Jyothimani

Bench: P.Jyothimani

Original Application No.879 of 2009

P.JYOTHIMANI,J.

This application is filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for brevity, "the Act") for an injunction against the respondents from alienating, mortgaging, leasing or encumbering or dealing with the schedule mentioned properties until the arbitration proceedings are disposed.

2.1. The short facts relevant for the disposal of this application are that respondents 1 to 5 formed a partnership firm in the name and style of "IXL Diamond" under a registered partnership deed dated 27.6.2005, followed by an addendum executed on the same day and another memorandum of understanding dated 28.6.2005 between the applicant and the second respondent.

2.2. Under the partnership, while the second respondent has contributed two parts, the other respondents, viz., respondents 1, 3 to 5 have contributed four parts with original capital of the said firm at ` 1,20,000/-, which was subsequently increased as per the addendum to ` 12 Lakhs. It is stated that under the memorandum of understanding dated 28.6.2005 entered into between the applicant and the second respondent, the second respondent has transferred one half of his stake in the partnership firm, which is one out of six parts of the total partnership claim, to the applicant. It is the case of the applicant that all the three documents, viz., partnership deed, addendum and the memorandum of understanding entered between him and the second respondent are to be read together.

2.3. The object of the partnership is stated to be identifying and purchasing properties, the value of which is in appreciation in order to sell the same to third parties and share the profits. It is stated that the understanding was that after identifying the properties, the same will not be purchased in the name of the firm but in the name of the individual by taking finance from the financial institutions. It is the case of the applicant that likewise seven transactions took place in respect of which documents were registered in the individual names of respondents 1 to 5 and one property at Nanguneri was also purchased in the name of the applicant.

2.4. It is stated that in respect of one property in HIRCO, respondents 1 to 5 have also taken respondents 6 to 8 as participants by a memorandum of understanding dated 15.9.2007.

2.5. It is stated that due to certain misunderstanding between the applicant and the respondents, there was exchange of legal notices between the applicant and the first respondent. It is stated that due to the efforts of the first respondent and other respondents, except the sixth respondent, attempts are being made to alienate the seven items of properties to third parties. It is stated that the first respondent has sent an email on 12.8.2009 stating that the applicant has been expelled from the partnership and respondents 1 to 8, excluding sixth respondent, have also concurred with the first respondent and therefore, according to the applicant, there is an arbitrable dispute between the applicant and the respondents and the applicant has caused a notice on 9.8.2009 and pending the arbitration, the present application is filed for an order of injunction, as stated above.

2.6. According to the applicant, the arbitrable dispute that has arisen between the parties relates to as to whether the partnership firm stands dissolved, and if not dissolved whether it is liable to be dissolved; and if the applicant retires or goes out of the partnership, what is the quantum of money which he is entitled to towards his capital share in the profits; and as to whether the expulsion of the applicant from the firm by the first respondent with the concurrence of other respondents, except sixth respondent, is valid.

3.1. In the counter affidavit filed by the second respondent on behalf of respondents 1 to 5, a preliminary objection is raised about the maintainability of the application filed by the applicant under Section 9 of the Act on the ground that there is no arbitration agreement between the parties and the applicant has no locus standi.

3.2. It is stated that there has never been a partnership deed between the applicant and the respondents and mere averment in the addendum or memorandum of understanding will not constitute a partnership firm and the partnership was only between respondents 1 to 5, as it is seen in the partnership deed dated 27.6.2005 and the addendum is also between respondents 1 to 5 and the said two documents cannot be correlated with the memorandum of understanding dated 28.6.2005 entered into between the applicant and the second respondent in his individual capacity. Such memorandum of understanding does not make the applicant as a partner and the same has not been signed by all the parties to the proceedings and therefore, all the three documents cannot be read together.

3.3. It is also stated that even assuming that the applicant can be treated as a partner, there is no arbitration agreement between the parties. Therefore, it is stated that the applicant, being a stranger to the partnership business, cannot maintain such application. It is stated that all the respondents are friends and have started the firm for investment on long term basis, for which the applicant has assisted through a common friend and on the other hand, the applicant has acted against the interest of the respondents. The appointment of Sole Arbitrator has no meaning, as there is no arbitral agreement in existence and therefore, it is stated that the applicant is not entitled to the order of injunction.

4.1. Mr.S.Sundar, learned counsel for the applicant would submit that even though the applicant was not made as a partner in the partnership deed dated 27.6.2005, the applicant, who happened to be a Non-Resident Indian, has been actively involved in the business of the partnership firm through the memorandum of understanding entered by him with the second respondent on 28.6.2005.

4.2. It is his submission that even though seven items of properties were purchased, only in respect of one item of property there was a dispute and that has resulted in difference of opinion and until that property was purchased everything was smooth. It is his case that the conduct of five respondents out of eight respondents in communicating the applicant through email dated 12.8.2009 the expulsion of the applicant from the partnership shows that the applicant should be treated as a partner by applying the principle enunciated under Section 7(4)(c) read with Section 7(5) of the Act.

4.3. He would refer to the memorandum of understanding entered between the second respondent and the applicant on 28.6.2005, by which the second respondent has relinquished a part of his share in the partnership firm in favour of the applicant and point out that there is a clause in the said memorandum of understanding stating that the partnership deed shall be read along with the memorandum of understanding and therefore, according to him, the applicant should be deemed to be a partner.

4.4. It is stated that after expulsion of the applicant on 12.8.2009 from the partnership, respondents 1 to 5 have entered into an agreement on 5.10.2009 and relying upon the judgment in Groupe Chimique Tunisien SA v. Southern Petrochemicals Industries Corpn. Ltd., [2006] 5 SCC 275, he would submit that post arbitral disputes cannot be taken into account. It is his further contention that the conduct of the parties after filing of the application under Section 9 of the Act cannot be taken into consideration and the applicant has also filed an application under Section 11 of the Act before the Hon'ble Chief Justice in O.P.No.213 of 2010 for appointment of an Arbitrator, in which respondents 1 to 5 have been served and that shows the manifest intention of the applicant to have the arbitration.

5.1. On the other hand, it is the contention of the learned counsel for respondents that in the partnership deed entered between respondents 1 to 5 inter se, the applicant is not a party and merely because there is a memorandum of understanding entered between the applicant and the second respondent, who happens to be one of the partners, it does not mean that the applicant should be deemed to be a partner. It is also his submission that inasmuch as in the memorandum of understanding all the respondents are not parties, the memorandum of understanding at the most can be treated as an arrangement regarding a particular transaction, in which event, if the applicant has any dispute, his remedy is not under Section 9 of the Act.

5.2. It is his submission that merely by an email communication the applicant cannot be treated as a partner. It is his submission that Section 7(4)(c) of the Act will apply only in cases where there is an existing agreement between the parties. It is his submission that even under the partnership deed, the arbitrator is to be appointed by majority decision and inasmuch as the applicant is not a party to

the partnership deed which contains an arbitration clause, Section 9 of the Act is not applicable to him. He would also submit that by the conduct of the parties the applicant cannot become a partner and such a memorandum of understanding is not binding upon all partners in order to invoke Section 9 of the Act and he would rely upon the decision in Firm Ashok Traders v. Gurumukh Das Saluja, AIR 2004 SC 1433 in this regard.

6. I have heard the learned counsel for the applicant and the respondents and given my anxious thought to the issue involved in this case.

7. Admittedly, in the original deed of partnership dated 27.6.2005 entered between respondents 1 to 5, the applicant is neither a party, nor stated as a partner and the clause in the said partnership deed does not state anything about the contribution of the applicant towards the partnership. The contribution and share of profit and loss as per the deed has been restricted only to respondents 1 to 5, as five partners. Clause 36 of the partnership deed, which is as follows:

> "36. That any dispute arising out of the partnership or between the partners to the arrangement shall be referred to Arbitrator appointed by majority of the existing partners of the firm and be governed by the Arbitration and Conciliation Act, 1996 and the decision of the arbitrator shall be final and binding on all the parties and their respective legal heirs and nominees and shall be enforceable before the court of law. Courts in Chennai shall have the exclusive jurisdiction to try the issues arising out of this agreement."

makes it clear that only if a dispute arises between the partners out of the partnership, such dispute can be referred to the Arbitrator as per the provisions of the Act.

8. On 27.6.2005, it is seen that respondents 1 to 5, who are the partners, have entered into an addendum to the deed of partnership, in which it is specifically stated that all the terms of the partnership deed shall apply to the addendum and shall be read along with the partnership deed dated 27.6.2005, but the intention is only for the purpose of increasing the capital of the partnership firm and even in the said addendum, the applicant is not a party, even though the applicant has signed as a witness in both the original partnership deed as well as the said addendum.

9. The crucial document which is relied upon by the applicant is the memorandum of understanding dated 28.6.2005 entered into between the applicant and the second respondent, who is one of the partners of the firm. It is no doubt true that the said memorandum of understanding refers to the partnership deed dated 27.6.2005, but that is only relating to the other partners and their interest in the capital of the partnership firm and it also says that even though there are five partners, the shares are divided into six parts and the second respondent was given two-sixth share while respondents 1, 3 to 5 were given one-sixth share equally. The said memorandum of understanding also states in one of the clauses, as follows:

> "Whereas the Second Party herein (applicant) is interested to join in the partnership arrangement but being an Non resident of India, has got no right to own or possess

agricultural lands in India."

10. The memorandum of understanding also states that the applicant has to pay ` 2 Lakhs to the second respondent and the second respondent should relinquish one-sixth share in the partnership firm in favour of the applicant. The relevant clause in the memorandum of understanding is as follows:

> "4. The First Party (second respondent) shall relinquish one out of his two shares as per the Partnership deed in the partnership arrangement to the Second Party (applicant)."

11. Clause 9 of the said memorandum of understanding, which is as follows, also states that it has to be read along with the partnership deed dated 27.6.2005:

> "9. This MOU shall be governed by the terms of the Partnership deed dated 27th June, 2005 and shall be read as part and parcel of the Partnership deed dated 27th June, 2005."

12. The said memorandum of understanding has not been signed by the other respondents except the second respondent, who is one of the partners. Certainly, the second respondent cannot bind the other partners of the partnership firm regarding the partnership business or activity, including the induction of the applicant into the partnership firm without the consent of the other partners.

13. Yet another crucial document is the memorandum of understanding dated 15.9.2007 entered into between the applicant being the second party, apart from respondents 1 to 3 and 6 to 8. A reference to the said memorandum of understanding shows that the same has been entered between the said parties in respect of purchase of a flat situated at Windsor-1, Floor No.8, Flat No.804, Thriveni Academy, Thriveni Nagar, Vadakapattu Village, Singaparumal Koil, Kanchipuram District 603 204 measuring an extent of 1803 Sq.Ft.

14. The memorandum of understanding dated 15.9.2007 nowhere refers about the partnership deed dated 27.6.2005. Therefore, at the most the said memorandum of understanding can be taken as an arrangement between the applicant and respondents 1 to 3 and 6 to 8 in respect of the said transaction of purchase of Flat Windsor-1 at Kanchipuram.

15. The clause in the memorandum of understanding dated 15.9.2007 specifically states that each of the parties are to contribute one-eighth share for purchase and they have equal right over the said property purchased. There is a right of pre-emption among eight persons who have entered into the memorandum of understanding, which is as follows:

> "19. that in the event of any one party deciding to leave out of this arrangement, the share held by the party thus opting out shall be purchased by any other party to this arrangement or any other third party."

16. The memorandum of understanding dated 15.9.2007, in clause 26, also says that if there is any dispute touching the title and ownership of the property, the same shall be decided only based on the memorandum of understanding or any other documents executed by more than one half of the members of the arrangement in writing subsequent to the date of purchase of the property. Clause 26 is as follows:

> "26. any dispute touching the title and ownership over the property shall be decided only based on the contents and covenants of this memorandum of understanding or any other documents executed by more than one half of the members of this arrangement in writing subsequent to the date of purchase of the property."

17. Therefore, on fact, there is nothing to connect the said memorandum of understanding dated 15.9.2007, which is signed by the majority of the respondents, except respondents 4 and 5, who are the partners in the original partnership, with the object of the original partnership. Even if Clause 26 of the said memorandum of understanding dated 15.9.2007 is deemed to have certain implication, as majority of the partners of the original partnership deed have signed the memorandum, the said clause specifically makes it clear that the other memorandum of understanding entered between the parties should be executed by more than one half of the members of the memorandum of understanding and such dispute can be decided only if such memorandum of understanding is entered subsequent to the date of purchase of the property. It is not in dispute that the date of purchase of the said property by eight persons is after the date of memorandum of understanding dated 15.9.2007. Therefore, even by applying Clause 26, there is nothing to presume that the applicant can be linked with the original partnership deed dated 27.6.2005 entered by respondents 1 to 5.

18. A legal notice issued on behalf of the first respondent dated 18.5.2009 addressed to the applicant which refers to the said flat Windsor-1, obviously while referring to the said memorandum of understanding dated 15.9.2007, has used the words "partnership arrangement". But that itself is not sufficient to come to a conclusion that by such words the applicant can be deemed to be a party to the partnership deed dated 27.6.2005. At the most that can be with regard to one of the items of properties to be purchased, which is by way of a joint venture.

19. Unfortunately, even in the reply issued on behalf of the applicant dated 29.5.2009 to the counsel for the first respondent, the applicant has not chosen to even state that he has any right over the partnership deed dated 27.6.2005 and what all is stated in the reply was only relating to the transaction of the said flat and there is absolutely no difficulty to conclude that the dispute between the applicant and the second respondent and other respondents was only in respect of purchase of the said flat Windsor-1 and not relating to the partnership business. It was only for the first time on 9.8.2009 the applicant has chosen to give a legal notice by referring about the partnership deed dated 27.6.2005 and suggested the name of an Arbitrator.

20. Again, it is the contention of the learned counsel for the applicant who relies upon an email communication by the first respondent dated 12.8.2009 which is relevant to be considered. The subject of the said email is stated as "Hirco David Final Communication". Obviously, it relates to

the said purchase of a flat Windsor-1, the subject matter of memorandum of understanding dated 15.9.2007. The contents of the email are as follows:

> "As you have witnessed, because of your refusal to co-operate with us in clearing the air of suspicion in regards to your financial dealings using the team's money, we had initiated a vote amongst the partners for deciding your continuation in the partnership. From the mails, which were copied to you also, it is clear that 6 out of the total 8 votes have gone in favour of expelling you from the partnership. There were 2 absentions. Based on the dispute clause in the partnership, a clear majority has unequivocally decided to expel you.
>
> You are hereby expelled from the partnership with immediate effect.
>
> We suggest that you refrain from any activity that will jeopardize the trust and commitment of the remaining partners."

The said words "expelled from the partnership with immediate effect" cannot be taken as if the applicant was expelled from the partnership entered on 27.6.2005. At the most the same can be referred to be an expulsion of the applicant from the memorandum of understanding dated 15.9.2007, since obviously the parties have been mistakenly referring the said memorandum of understanding dated 15.9.2007 as a partnership arrangement.

21. In any event, in the absence of any proof to show that the applicant, who was not originally a partner under the partnership deed dated 27.6.2005, has been subsequently inducted as a partner by the partners either by consent or by conduct, it is not possible to come to a conclusion that the applicant should be deemed to have been a partner under the original partnership deed dated 27.6.2005. Unless the applicant is able to prove that he is a party to the original partnership deed, either by an agreement or by the conduct of the parties or by exchange of communication, certainly the applicant cannot be deemed to be a party to the arbitral agreement.

22. A person who is not a party to the arbitral agreement cannot maintain an application for interim measure before this Court. Section 9 of the Act, which speaks about interim measures, etc. by the Court, definitely uses the words "a party may", thereby permitting the party to approach for an order of an appointment of a guardian; or for interim measure for preservation, interim custody or sale of goods; securing the amount in dispute; or detention, preservation or inspection of any property; or interim injunction or the appointment of a receiver; or such other interim measure of protection as may appear to the Court to be just and convenient and such measures can be granted either before the arbitral proceedings or during the proceedings or after the arbitral award but before it is enforced.

23. The term "party" is defined under Section 2(h) of the Act as follows:

> "Section 2(h): "party" means a party to an arbitration agreement."

Therefore, the right of a person to claim an interim measure under Section 9 of the Act is available only to a party to an arbitration agreement. In this case, the applicant claims his right of raising a dispute for arbitration as per Clause 36 of the partnership deed dated 27.6.2005, elicited above, which enables the partner to the arrangement to refer to the Arbitrator any dispute. The memorandum of understanding dated 15.9.2007 does not contain any arbitration clause and therefore, even if the dispute is deemed to have arisen under the said memorandum of understanding, in the absence of any arbitration clause in the said memorandum of understanding dated 15.9.2007, stated above, in my considered view, the applicant can never be treated as a party to an arbitration agreement who is entitled to interim protection under Section 9 of the Act.

24. If at all the applicant has got any right which may arise out of the memorandum of understanding dated 28.6.2005 entered between him and the second respondent or in respect of the above said item of property, viz., Flat Windsor-1, based on memorandum of understanding dated 15.9.2007 entered between the applicant and respondents 1 to 8, except respondents 4 and 5, he has to only work out his right for the purpose of claiming damages, etc. in the manner known to law and not raise a dispute under the provisions of the Act, for the reason that he is not a party to the arbitration agreement.

25. The reliance placed on by the learned counsel for the applicant on Sections 7(4)(c) and 7(5) of the Act, which are as follows, is totally misconceived:

> "Section 7. Arbitration agreement.-
>
> (1) to (3) ....
>
> (4) An arbitration agreement is in writing if it is contained in-
>
> (a) and (b) .....
>
> (c) an exchange of statements of claim and defence in which the existence of the agreement is alleged by one party and not denied by the other. (5) The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement if the contract is in writing and the reference is such as to make that arbitration clause part of the contract."

Section 7(4)(c) of the Act applies to cases where a particular person is a party to an existing agreement which does not contain a clause for arbitration, but by the subsequent exchange of communication between the parties, the existence of arbitrable dispute is presumed. The said Section 7(4)(c) of the Act makes it clear that it applies only to a person who is a party to the agreement, and when such person by way of exchange of communication demands arbitration, which has not been denied by the other party, then the presence of arbitration agreement is presumed. Inasmuch as the applicant is not a party to the original partnership deed dated 27.6.2005, which alone contains the arbitration clause, and none of the other documents, viz., the addendum dated 27.6.2005 or the memorandum of understanding dated 28.6.2005 contain such

arbitration clause, the applicant is not entitled to presume himself to be a party to the arbitration agreement by applying Section 7(4)(c) of the Act and as stated above, Section 7(5) of the Act has no application to the facts and circumstances of the case at all.

26. Even in the subsequent memorandum of understanding dated 15.9.2007 entered between the applicant and other respondents, except respondents 4 and 5, the parties have not agreed to make the arbitration clause of the partnership deed dated 27.6.2005 as forming part of the said memorandum of understanding and therefore, by no stretch of imagination the applicant can claim any right either under Section 7(4)(c) or 7(5) of the Act.

27. The reliance placed by the learned counsel for the applicant on the judgment of the Supreme Court in Groupe Chimique Tunisien SA v. Southern Petrochemicals Industries Corpn. Ltd., [2006] 5 SCC 275 has no application to the facts of the present case. The well established law declared by the Hon'ble Supreme Court in the following paragraphs relied upon by the learned counsel for the applicant speaks volumes to the effect that the said concept has absolutely no application to the facts of the present case. Paragraphs [6] and [7] of the said judgment are as follows:

> "6. Whether there is an arbitration agreement or not, has to be decided with reference to the contract documents and not with reference to any contention raised before a court of law after the dispute has arisen. Reference to pleadings before the Jordanian Courts would have been relevant if the plea was that the arbitration agreement between the parties is contained in the exchange of statement of claim and defence in which the existence of the agreement is alleged by one party and not denied by the other (as contemplated under section 7(4)(c) of the Act). Be that as it may. Section 2(b) of the Act defines "arbitration agreement" as meaning an agreement referred to in Section 7 (extracted below) :
>
> "7. Arbitration agreement. - (1) In this Part, "arbitration agreement" means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. (2) An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement. (3) An arbitration agreement shall be in writing.
>
> (4) An arbitration agreement is in writing if it is contained in
>
> (a) a document signed by the parties;
>
> (b) an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement; or
>
> (c) an exchange of statements of claim and defence in which the existence of the agreement is alleged by one party and nor denied by the other. (5) The reference in a contract to a document containing an arbitration clause constitutes an arbitration

agreement if the contract is in writing and the reference is such as to make that arbitration clause part of the contract."

7. The purchase orders placed by the respondent on the petitioner are the contracts between the parties and they are subject to FAI terms which contain the arbitration clause Sub-section (5) of section 7 specifically provides that where there is reference in a contract (in this case, the purchase order) to a document containing an arbitration clause (in this case, the FAI terms), such reference constitutes an arbitration agreement, if the contract is in writing and the reference is such as to make that arbitration clause a part of the contract. The case squarely falls under section 7(5) of the Act and there is an arbitration agreement between the parties as per clause 15 of the FAI terms."

28. On the other hand, as rightly submitted by the learned counsel for the respondents, the Supreme Court has held in Firm Ashok Traders v. Gurumukh Das Saluja, AIR 2004 SC 1433 that a person who is not a party to the arbitration agreement cannot seek protection under Section 9 of the Act. The Supreme Court, by referring to the earlier judgment in M/s.Sundaram Finance Ltd. v. M/s.NEPC India Ltd., AIR 1999 SC 565, has held as follows in paragraph [13]:

"13. A and C Act, 1996 is a long leap in the direction of alternate dispute resolution systems. It is based on UNCITRAL Model. The decided cases under the preceding Act of 1940 have to be applied with caution for determining the issues arising for decision under the new Act. An application under Section 9 under the scheme of A and C Act is not a suit. Undoubtedly, such application results in initiation of civil proceedings but can it be said that a party filing an application under Section 9 of the Act is enforcing a right arising from a contract? "Party" is defined in Clause (h) of Sub-section (1) of Section 2 of A and C Act to mean 'a party to an arbitration agreement'. So, the right conferred by Section 9 is on a party to an arbitration agreement. The time or the stage for invoking the jurisdiction of Court under Section 9 can be (i) before, or (ii) during arbitral proceedings, or (iii) at any time after the making of the arbitral award but before it is enforced in accordance with Section 36. With the pronouncement of this Court in M/s.Sundaram Finance Ltd. v. M/s.NEPC India Ltd., AIR 1999 SC 565 the doubts stand cleared and set at rest and it is not necessary that arbitral proceedings must be pending or at least a notice invoking arbitration clause must have been issued before an application under Section 9 is filed. A little later we will revert again to this topic. For the moment suffice it to say that the right conferred by Section 9 cannot be said to be one arising out of a contract. The qualification which the person invoking jurisdiction of the Court under Section 9 must possess is of being a 'party' to an arbitration agreement, A person not party to an arbitration agreement cannot enter the Court for protection under Section 9. This has relevance only to his locus standi as an applicant. This has nothing to do with the relief which is sought for from the Court or the right which is sought to be canvassed in support of the relief. The reliefs which the Court may allow to a party under Clauses (i) and (ii) of Section 9 flow from the power vesting in the Court exercisable by reference to 'contemplated', 'pending' or 'completed' arbitral proceedings. The Court is conferred with the same power for making the specified

> orders as it has for the purpose of and in relation to any proceedings before it though the venue of the proceedings in relation to which the power under Section 9 is sought to be exercised is the arbitral tribunal. Under the scheme of A and C Act, the arbitration clause is separable from other clauses of the Partnership Deed. The arbitration clause constitutes an agreement by itself. In short, filing of an application by a party by virtue of its being a party to an arbitration agreement is for securing a relief which the Court has power to grant before, during or after arbitral proceedings by virtue of Section 9 of the A and C Act. The relief sought for in an application under Section 9 of A and C Act is neither in a suit nor a right arising from a contract. The right arising from the partnership deed or conferred by the Partnership Act is being enforced in the arbitral tribunal; the Court under Section 9 is only formulating interim measures so as to protect the right under adjudication before the arbitral tribunal from being frustrated. Section 69 of the Partnership Act has no bearing on the right of a party to an arbitration clause to file an application under Section 9 of A and C Act."

Therefore, looking from any angle, the applicant is not entitled to any relief claimed in this application. This application stands dismissed.

20.8.2010 Index : Yes Internet : Yes sasi P.JYOTHIMANI,J.

[sasi] 20.8.2010