

In the High Court of Punjab and Haryana at Chandigarh

Regular Second Appeal No. 4057 of 2015 (O&M)

Date of Decision: 02.5.2017

Satta and another

.....Appellants

Versus

Pohu Lal and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Satbir Rathore, Advocate
for the appellants.

ANITA CHAUDHRY, J

This appeal is by defendants No. 2 and 3 against the findings recorded against them by both the Courts below.

Ram Kishan defendant No. 1 entered into an agreement to sell his property to the plaintiff namely Pohu Lal on 17.3.2006. The earnest money of Rs. 1,50,000/- was paid and the sale deed was to be executed on 31.3.2007. The plaintiff claimed that he was ready and willing to perform his part of the agreement but before the appointed day, he learnt that the defendants had connived with each other and were planning to execute a sale deed secretly and he filed the suit before the appointed day i.e. 14.3.2007 praying for a decree for specific performance. It was pleaded that the plaintiff was ready and willing to perform his part of the contract.

Defendant No. 1 pleaded that the plaintiff had suppressed true facts and he was not ready and willing to perform his part of the contract and did not have the financial capacity. It was pleaded that the defendant was suffering from various diseases and he needed the money and had

execute and therefore he sold the land to defendants No. 2 and 3 on 9.8.2007 for a consideration of Rs. 3,00,000/- and they have become the owners of the property.

Defendants No. 2 and 3 pleaded that defendant No. 1 had sold the property to them for Rs. 25.00 lacs but in order to save the registration fees, the sale deed was executed for a sum of Rs. 3,00,000/- and had issued a separate receipt for Rs. 25.00 lacs.

The trial Court noted that the suit had been filed on 14.3.2007 i.e. before the date of execution of the sale deed and had arrayed defendants No. 2 and 3 and notice was issued on 21.3.2007 on which date they appeared in person but still went ahead with the sale deed knowing fully well that there was an earlier agreement and the plea of *bona fide* purchaser was not available to them. The Court also found that the execution of the agreement in favour of the plaintiff had been proved and defendant No. 1 had admitted that he had received the earnest money and he had also admitted that the last date for execution was on 31.3.2007 and the plaintiff was always ready and willing to perform his part of the agreement.

An appeal was preferred by defendants No. 2 and 3 which was dismissed holding that defendants No. 2 and 3 had appeared in the case much prior to the execution of the sale deed and they were not *bona fide* purchasers and there was an earlier agreement in favour of the plaintiff which would give the plaintiff, the first right.

I have heard the counsel for the appellant at great length and I find no merit in the appeal. The appellants went ahead and purchased the property knowing fully well that there was an earlier agreement. They were arrayed as defendants in the suit filed by the plaintiffs and service had been

effected upon them much earlier and the sale deed executed in their favour was registered almost after four months. Both the Courts below had rightly held that defendants No. 2 and 3 were not *bona fide* purchasers. There is no infirmity in the findings recorded by both the Courts below.

The appeal is dismissed in limine.

A copy of this judgment be sent to the Collector concerned.

The appellants had admitted that the actual sale consideration was Rs. 25.00 lacs but in the sale deed, only an amount of Rs. 3,00,000/- was shown. It is a case of evasion of stamp duty.

(ANITA CHAUDHRY)
JUDGE

May 02, 2017

Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No