

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2018

Coram

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.667 of 2017

1.Mr. Balaji Sampath

2. Mrs. Supraja Sowrirajan
rep. by their authorized
Power of Attorney Agent
Mr. Krishnaswamy Sowrirajan

... Plaintiffs

Vs.

1. Ambojini Property Developers Private Limited.

2. Real Value Promoters Private Limited

...Defendants

सत्यमेव जयते

The suit has been filed seeking a direction to the defendants to pay a sum of Rs.27,98,736/- (Rupees Twenty Seven Lakh Ninety Eight Thousand Seven Hundred and Thirty Six Only) to the plaintiffs and with further interest at the same rate 18% per annum on the principal advance money of Rs.15,59,184/- (Rupees Fifteen Lakh Fifty Nine Thousand One Hundred and Eighty four only) from the date of Plaint to the date of decree and also directing the defendants to pay the sum of Rs.5,00,000/- (Rupees Five Lakhs

only) as damages for mental agony and pain which they had to suffer to the very long, undue and inexcusable delay in the commencement, execution and completion of the project at Real Value Peace and Prosperity and also for the very long and undue delay in the repayment of the advance amount of Rs.15,59,184/-(Rupees Fifteen Lakh Fifty Nine Thousand One Hundred and Eighty four only)

For Plaintiffs : Mr. A. Sathiyamurthi
(For M/s.Ganesh and Ganesh)

For D1 : No Appearance

For D2 : No Appearance

JUDGMENT

This suit has been filed by the plaintiffs for recovery of a sum of Rs.15,59,184/- (Rupees Fifteen Lakh Fifty Nine Thousand One Hundred and Eighty four only) along with interest which has been paid as advance for the purchase of flat.

2. The facts, in brief, are that the plaintiffs have paid a sum of Rs.15,59,184/- for purchase of Flat in the project developed by the Second defendant at Taramani (OMR) Near Tidel Park. The above said amount was paid through Cheque bearing No.896644 dated 30.11.2012, drawn on HDFC Bank, Santhome High Road Branch, Chennai. in favour of the first defendant by the plaintiffs. After realization of the said amount, the defendants have

not constructed flat as agreed for.

3. Therefore, the Plaintiffs have sent a letter dated 22.07.2015 to the defendants to cancel the booking of the flat and sought for refund of the advance amount of Rs.15,59,184/- (Rupees Fifteen Lakh Fifty Nine Thousand One Hundred and Eighty four only) which was paid during the booking of flat. Hence the suit is filed by the plaintiffs to refund the advance amount along with interest as the defendants have not refunded the same for long years after canceling the booking of flat.

4. The defendants were called absent and set ex-parte.

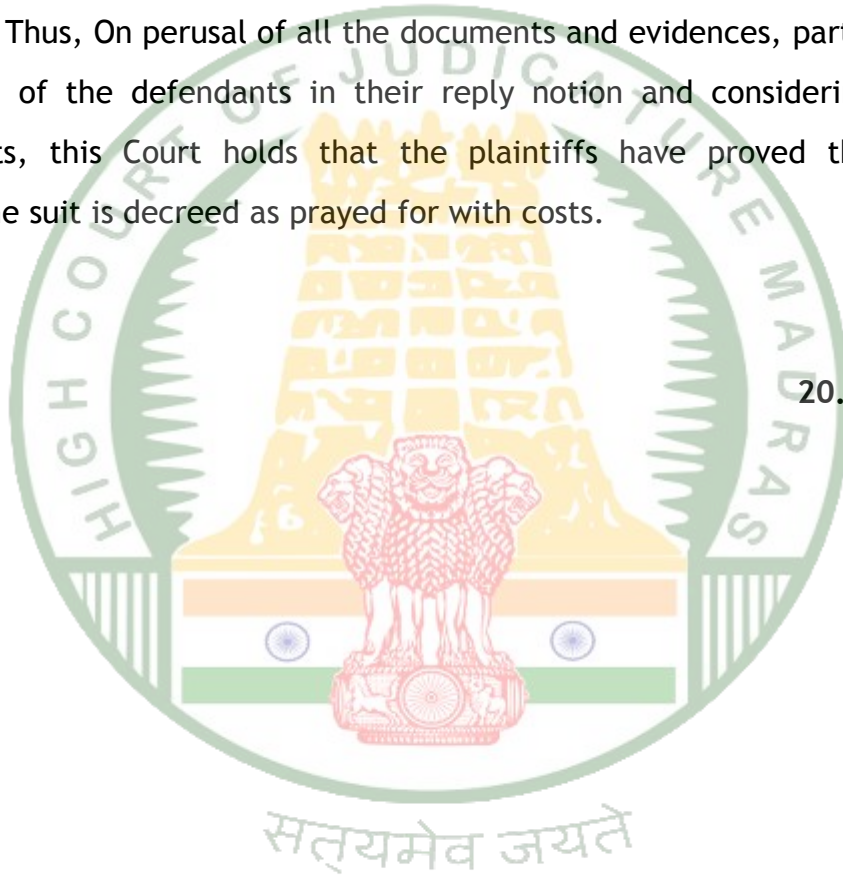
5. P.W.1 examined. Exh.P1. to Ex.P15 were marked before the Additional Master-I . P.W.1 has given evidence during examination stating that the plaintiffs have fixed a flat for purchase for which a sum of Rs.15,59,184/- was paid as advance. Thereafter, the defendants have not come forward to develop the flat booked by the plaintiffs. Ex.P2 is the copy of the booking form dated 30.11.2012 and Ex.P3 shows that the defendants have received 15,59,184/- by way of Cheque No.896644 dated 30.11.2012 drawn on HDFC Bank, towards construction of the flat. Ex.P4 is the Original Receipt for payment issued by the defendants. Ex.P5 is the welcome letter from the defendants for having booked the flat by the plaintiffs. Ex.P6 is the letter sent by the plaintiffs to the defendants explaining the cancellation of the booking of the flat. Ex.P7 is the E-mail correspondence sent by the defendants to the plaintiffs agreeing to refund the amount by end of July 2016 in installments. Thereafter, Ex.P8 to Ex.P10 are the E-mail communications between the parties. Ex.P11 & Ex.P12 are the E-mail correspondences agreeing to refund the amount by 15th October 2016 in

installments. Ex.P13 is the legal notice dated 23.11.2016 sent by the plaintiffs. Ex.P14 is the reply notice dated 26.12.2016 sent by the defendants agreeing to settle the amount within 3 to 4 month and requesting the plaintiffs to defer from initiating legal action.

6. Thus, On perusal of all the documents and evidences, particularly, admission of the defendants in their reply notion and considering other documents, this Court holds that the plaintiffs have proved the case. Hence, the suit is decreed as prayed for with costs.

20.07.2018

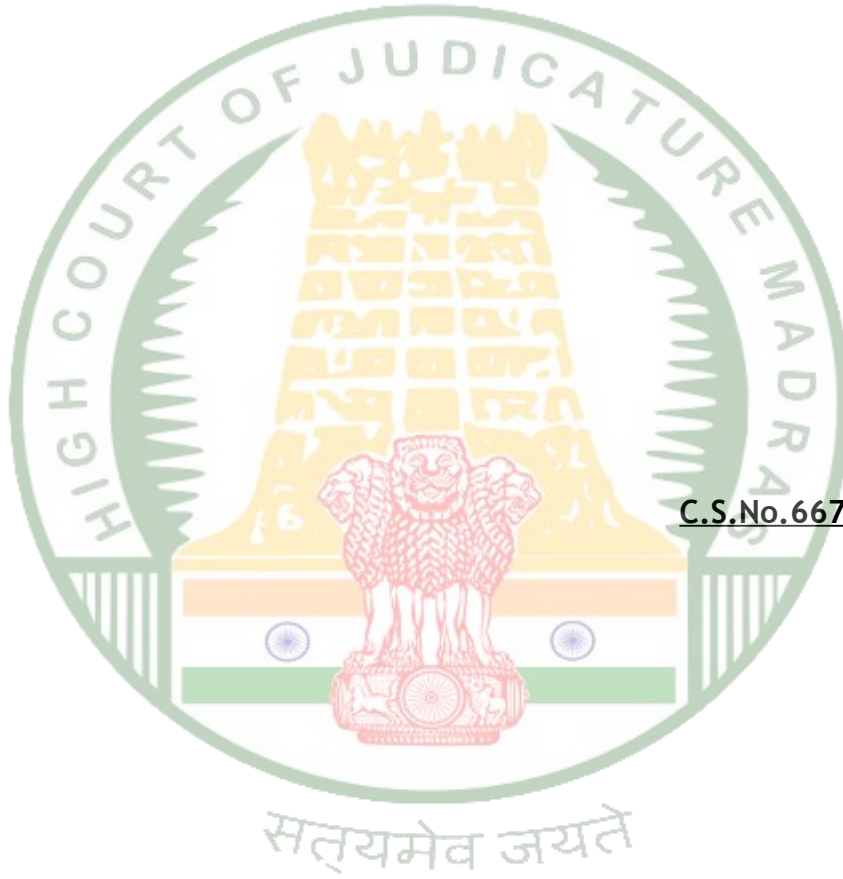
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N. SATHISH KUMAR, J.

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