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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.398 of 2016

P.R.Binthu

..Appellant/Plaintiff

Vs.

1.Land Marvel Homes

Rep.by its Managing Partner

M.Veerashakar

S/o.VR.Muthuraman,

No.9, 1st Cross Street,

Kasturba Nagar, Adyar,

Chennai-600 020.

..1<sup>st</sup> Respondent/1<sup>st</sup> Defendant

2.T.Ramachandran

..2<sup>nd</sup> Respondent/2<sup>nd</sup> Defendant

Prayer : First Appeal filed against the Judgment & Decree dated 10.04.2015 passed in O.S.No.10762 of 2010 on the file of the III Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.C.Mohan  
for M/s.King and Partridge

For Respondents : Mr.Inthukarunakaran for R1  
Mr.T.Shanmugam for R2.

ORDER

The appeal suit on hand is filed against the judgment and decree dated 10.04.2015 passed in O.S.No.10762 of 2010, on the file of the III Additional Judge, City Civil Court, Chennai.

2. The suit was instituted by the appellant/plaintiff to direct the first respondent/first defendant to perform the agreement dated 25.01.2006 and to do all acts necessary to construct and hand over the flat with a built up area of about 930 sq.ft. along with 465 sq.ft of undivided share of vacant land in the suit 'A' schedule property more fully described in suit 'B' schedule.

3. When the appeal suit was taken up for hearing, the parties have agreed to settle the issues as the flat was unable to be constructed and the builder also consented for return of the amount paid by the plaintiff towards purchase of a flat. Mr.M.Veerashakar, son of V.R.Muthuraman, the Managing



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Partner of Land Marvel Homes, a partnership firm, filed an affidavit stating that "as mutually agreed between the appellant and the 1st respondent, in order to give quietus to the disputes, the 1st respondent shall pay an amount of Rs.61,50,000/- (Rupees Sixty One Lakhs and Fifty Thousand Only) to the appellant as full and in final settlement". In paragraph No.8, it is further stated that "the first respondent shall settle the above said payment on or before 31.12.2020, failing which, the first respondent shall be given a grace period of 3 months from 01.01.2021 and the said amount of Rs.61,50,000/- (Rupees Sixty One Lakhs and Fifty Thousand Only) shall carry interest @ 12% per annum from 01.01.2021. In paragraph No.9, it is reiterated that "if the payments are not paid as agreed above the appellant is entitled to a decree for the above said amount and she shall be entitled to execute the said decree with further interest @ 12% per annum till date of actual realization. The appellant shall be entitled to execute for decree or undertake such and other measure available in law".

4. Pursuant to the affidavit filed by the first respondent/Land Marvel Homes, the appellant/plaintiff filed an affidavit stating as follows:

3.The appellant most respectfully submits that she agrees for the following:

a. Receipt of a sum of Rs.61,50,000/- from the 1st respondent on or before 31.12.2020.

b. In the event, the said sum of Rs.61,50,000/- is not paid on or before 31.12.2020, this appellant shall be entitled to execute the orders passed by this Hon'ble Court in the above A.S.No.398 of 2016 as a decree on any date after 01.01.2021 with interest at 12% on Rs.61,50,000/- from 01.01.2021 till the date of actual realisation.

c. The appellant shall be entitled to execute the decree before this Hon'ble Court, independent of any other right that the appellant may have in the manner known to law.

d. Only after receipt of the full sum of Rs.61,50,000/- on or before 31.12.2020, will the appellant execute documentation towards release of her right over the 465 sq.ft. undivided share in the Schedule mentioned property.

e. Accordingly this appeal shall be allowed and decree passed in terms of the affidavits filed by the 1st respondent dated 19.02.2020 on 20.02.2020 and agreed to the extent mentioned herein by the appellant vide this affidavit dated 22.02.2020 filed during the hearing on 24.02.2020.



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For all the reasons stated hereinabove, it is most respectfully prayed that this Hon'ble Court may be pleased to record this affidavit and pass appropriate orders and thus render justice.

5. In view of the settlement between the parties arrived and affidavits filed by the appellant as well as the first respondent respectively, the parties have agreed to settle the issues as per their affidavits filed.

6. Thus the above settlement between the parties are to be treated as a part and parcel of the decree drawn in A.S.No.398 of 2016. Accordingly, the judgment and decree dated 10.04.2015 passed in O.S.No.10762 of 2010 is quashed and the first appeal stands allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

//True copy//

Sub Assistant Registrar

ssb

To

The III Additional Judge, City Civil Court, Chennai.

Copy To

The Section Officer,  
Vernacular Records,  
High Court, Madras-104

+1cc to M/s.King and Partridge, Advocate SR.No.16322

A.S.No.398 of 2016

RSK (CO)  
GMY (18/08/2020)