

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 11th DAY OF NOVEMBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

C.S. No.817 of 2018

1. Mr.L.Abhishek Kankaria,
S/o.Sri Lalesh Kumar Jain,

2. Mr.Lalesh Kumar Jain,
S/o.Late Sri.Sonraj Kankariya,
both residing at No.92-A, Dr.Alagappa Road,
Purasawalkam, Chennai-600 084.

... Plaintiffs

-Versus-

1. The Institute of Community Development Services,
rep. by its President, Mrs.X.Maria, W/o.Xavier,
No.1/461, Pillayar Koil Street, Kelambakkam,
Kanchipuram District-603 103
rep. herein by her Power of Attorney,
Mr.D.Anandaraj,
No.17, P.T.Rajan Salai,
K.K.Nagar, Chennai-600 078.

2. D.Anandaraj,
S/o.Devarajan,
Proprietor of Udhayam Foundations,
No.17, P.T.Rajan Salai, K.K.Nagar,
Chennai-600 078.

... Defendants

Civil Suit praying that this Hon'ble Court be pleased to pass a
judgment and decree:-

directing the 1st and 2nd defendants to execute the sale deeds

against the sale agreement Doc. Nos.3407/2013, 3405/2013 and 3406/2013 dated 14.03.2013 measuring an extent of plot No.12 area 834 sq.ft., plot No.13 area about 993 sq.ft., and Plot No.14 area about 963 sq.ft. in favour of the plaintiff;

or

to direct the defendants to pay a sum of Rs.1,37,56,500/- towards the cost of land (UDS) and Cost of Construction and the Loan amount borrowed by the defendant.

This suit coming on this day before this court for hearing in the presence of Mr.T.Sri Krishna Bhagavat, advocate for the plaintiffs herein and Mr.S.V.Shah for M/s.Shah & Shah, advocates for the 1st defendant herein and Mr.S.B.Murugesan, advocate for the 2nd defendant herein and upon reading the plaint and the memorandum of understanding and compromise dated 09.11.2020 filed herein and the said memorandum of understanding and compromise signed by the plaintiffs and the defendants and their respective advocates and the said advocates for the parties hereto praying this court to pass a decree in terms of the memorandum of understanding and compromise morefully setout in the schedule 'B' hereunder, and the learned counsel for the plaintiffs and the defendants having submitted that the matter has been compromised between the parties and the memorandum of understanding and compromise has also been signed by the parties before in their presence and this court doth recording

the said submission, it is ordered and decreed as follows:-

That the plaintiffs herein agreed to take Plot No.12 and Plot No.13, which are subject matter of the two agreements of sale dated 14.03.2013 between the 2nd defendant as the power agent of the 1st defendant and the 1st plaintiff, registered as Document No.3405/2013 and 3407/2013 in the S.R.O. Thiruporur, being item 1 and 2 in the suit schedule property, together with the superstructures thereon in as is where is condition, in full, final and complete settlement of all their claims against the second defendant.

2. That the 1st plaintiff herein, shall retain with him the two original sale agreements bearing Document Nos.3405/2013 and 3407/2013 and also the two construction agreements dated 14.03.2013 entered into between the 2nd defendant and the 1st plaintiff, in respect of plots 12 and 13.

3. That the 1st plaintiff herein, gives up all his rights, claims and interest in respect of Plot No.14, which is subject matter of the agreement of sale dated 14.03.2003 between the 2nd defendant as the power agent of the 1st defendant and the 1st plaintiff, registered as Document No.3406/2013 in the S.R.O. Thiruporur, being item 3 in the suit schedule property together with the superstructures thereon.

4. That the sale agreement bearing Document No.3406/2013 and

the construction agreement dated 14.03.2013 relating to Plot No.14 do stand cancelled, and the 1st plaintiff herein shall return the said two agreements to the 2nd defendant herein and necessary cancellation of the said sale agreement bearing Document No.3406/2013 shall be registered.

5. That the 2nd defendant herein, being the promoter of the project under the Joint Development Agreement with the 1st defendant, who was allotted Plot Nos.12, 13 and 14 towards his share (out of which Plot No.12 and 13 are given to the 1st plaintiff), shall be entitled to retain Plot No.14 for himself, with the superstructures thereon.

6. That the 1st defendant herein, being the land owner, had earlier given GPA dated 29.08.2011 registered as Document No.1081/2011 in the S.R.O. Tiruporur in favour of the 2nd defendant for the project, cancelled it by a deed dated 19.12.2014 registered as Document No.18318/2014 in the S.R.O. Thiruporur, shall now execute and register fresh General Power of Attorney in favour of the 2nd defendant in respect of the Plots 12, 13 and 14.

7. That the 2nd defendant herein as the power agent of the 1st defendant herein on the strength of the fresh GPA and the 1st plaintiff as the agreement holder shall cancel the three agreements of sale dated 14.03.2013 registered as Document No.3405/2013, 3406/2013 and 3407/2013 in the SRO Thiruporur, the earlier three construction agreements dated 14.03.2013

relating to construction on Plots 12, 13 and 14 also stands cancelled.

8. That the 2nd defendant herein as the power agent of the 1st defendant herein shall also execute and register sale deed/s in favour of the 1st plaintiff herein for the plots 12 and 13 mentioning sale consideration as paid for a sum of Rs.8,10,000/- (Rupees eight lakhs and ten thousand only) and Rs.8,40,000/- (Rupees eight lakhs and forty thousand only) respectively.

9. That the 2nd defendant herein and the 1st plaintiff herein shall execute fresh construction agreement in respect of unfinished construction on Plots 12 and 13 in as is where is condition, mentioning reimbursement of construction cost for the sum of Rs.11,47,200/- (Rupees eleven lakhs forty seven thousand and two hundred only) for each plot.

10. That the sale consideration and the cost for unfinished construction mentioned in the sale deeds and the construction agreement, have been arrived at mutually by the plaintiffs and the 2nd defendant herein for the purpose of settlement but actually no amount is payable by the plaintiffs to the 2nd defendant nor receivable by the 2nd defendant from the plaintiffs.

11. That the 2nd defendant herein shall hand over possession of the plots 12 and 13 and the unfinished construction thereon to the 1st plaintiff at the time of execution and registration of the documents.

12. That the 2nd defendant herein shall be entitled to deal with the plot No.14 and also construction thereon as deemed fit by him.

13. That the stamp duty, registration fees and other expenses shall be borne by the 1st plaintiff and the 2nd defendant proportionately for their entitlements.

14. That the 1st defendant herein shall pay to the 2nd defendant the sum of Rs.11,00,000/- (Rupees eleven lakhs only) in full and final settlement of all their mutual claims under the Joint Development Agreement dated 23.04.2011 and the second supplemental agreement dated 20.06.2016.

15. That as against registration of the documents, which shall be done simultaneously and receipt of the sum of Rs.11,00,000/- (Rupees eleven lakhs only) by the 2nd defendant from the 1st defendant by demand draft, the original sale deed dated 30.04.1986 registered as Document No.902/1986 in the SRO, Tiruporur in favour of the 1st defendant shall be handed over by the 1st plaintiff to the 1st defendant along with other related documents.

16. That the parties have exchanged and finalised necessary drafts of the documents to be executed/registered in the aforesaid manner between them.

17. That in view of this settlement and compromise, neither of the parties have any kind of claim whatsoever against the other party and the disputes covered under the legal proceedings viz., C.S. No.817 of 2018 before the Hon'ble High Court filed by the plaintiffs against the defendants herein and in O.S. No.297 of 2015 before the D.M.C.Chingleput filed by the 1st defendant herein against the 2nd defendant herein shall both be deemed to have been settled.

18. That the parties hereto shall execute and register the documents as mentioned above and fulfil their respective obligations, on or before 11th December 2020.

19. That the connected applications do stand closed.

SCHEDULE A

Plot No.12

All that piece and parcel of land bearing Plot No.12 approved by Kelambakkam, Panchayat vide approval No.48/2011-12, situated at Kelambakkam Village, comprised in Survey No.115 part, measuring 834 sq.ft., marked in the sketch annexed hereto, bounded on the

North by : Plot No.2

South by : Common Access;

East by : Plot No.13;

West by : Plot No.11

together with 132 sq.ft., of undivided share in the land measuring 1584 sq.ft., earmarked as roads, for the common access and use as roads only for the plots 8 to 19 shown in the sketch annexed herewith as 16' wide passage, in all of the total extent of 966 sq.ft., comprised in Survey No.115 part within the registration district of Chenglepet and registration sub district of Tiruporur.

Plot No.13

All that piece and parcel of land bearing Plot No.13 approved by Kelambakkam, Panchayat vide approval No.48/2011-12, situated at Kelambakkam Village, comprised in Survey No.115 part, measuring 861 sq.ft., marked in the sketch annexed hereto, bounded on the

North by : Plot No.1

South by : Common Access;

East by : Part of A schedule property

West by : Plot No.12

together with 132 sq.ft., of undivided share in the land measuring 1584 sq.ft., earmarked as roads, for the common access and use as roads only for the plots 8 to 19 shown in the sketch annexed herewith as 16' wide passage, in all of the total extent of 993 sq.ft., comprised in Survey No.115 part within the registration district of Chenglepet and registration sub district of

Tiruporur.

Plot No.14

All that piece and parcel of land bearing Plot No.14 approved by Kelambakkam, Panchayat vide approval No.48/2011-12, situated at Kelambakkam Village, comprised in Survey No.115 part, measuring 831 sq.ft., marked in the sketch annexed hereto, bounded on the

North by : Common Access

South by : Grama Natham

East by : Part of A schedule

West by : Plot No.15

together with 132 sq.ft., of undivided share in the land measuring 1584 sq.ft., earmarked as roads, for the common access and use as roads only for the plots 8 to 19 shown in the sketch annexed herewith as 16' wide passage, in all of the total extent of 963 sq.ft., comprised in Survey No.115 part within the registration district of Chenglepet and registration sub district of Tiruporur.

SCHEDULE B

MEMORANDUM OF UNDERSTANDING AND COMPROMISE

KLY-15/04/2021

C.S. No.817 of 2018

DECREE:

DATED: 11/11/2020

THE HON'BLE MR.JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 02/07/2021

APPROVED ON: 23/07/2021