

CORAM : G. S. PATEL J.
Date : 27/01/2021

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27/01/2021

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 61 OF 2019

IN

TESTAMENTARY PETITION NO. 2611 OF 2017

Petition for Letters of Administration in
respect of certain Properties and Credits
belonging to Blaise Rosario Fernandes,
Married, Christian, Indian Inhabitant of
mumbai, Occupation: retired, who was
residing at the time of his death at Flat No.12,
Lovely Home Co-operative Housing Society,
9, Cuffe Parade, Colaba, Mumbai – 400 005.

1. **Pearl Fernandes Navin**)
Age: 45 years, Occupation.: Housewife)
residing at Flat No.12, 1st Floor, 9)
Cuffe Parade, Mumbai – 400 005 and)
also having address at 22, Fernwood)
Terrace, Unit 0602, Singapore 458553)
2. **Petal Svetlana Fernandes**)
Age: 42 years., Occ.: Administration)
Officer, residing at Flat No.12, 1st)
Floor, 9 Cuffe Parade, Colaba, Mumbai)
– 400 005 and also having address at)
15, Akuna Street, Keiraville, NSW)
2500, Australia) ...Plaintiffs

Versus

Pierre Victor Fernandes)
Age 48 years, Indian Christian Inhabitant.)
residing at 38, Divyang, 4th floor, 81-B,)
Shahid bhagat Singh Road, Colaba, Mumbai)
– 400 005.)Defendant /
Orig. Caveator

PE
fhs
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CONSENT TERMS

1. The present Consent Terms are being filed by and between the Defendant, Mr. Pierre Victor Fernandes (“**Pierre**”), and his two sisters Pearl Fernandes (“**Pearl**”) and Petal Fernandes (“**Petal**”). Pierre, Pearl and Petal are the children of Monica Fernandes and Blaise Fernandes (“**Monica**” and “**Blaise**” respectively).
2. Blaise passed away intestate on 08.11.1995. The present Testamentary Petition was filed by Monica on 20.12.2017 seeking Letters of Administration in respect of the estate of Blaise.
3. Monica passed away on 22.12.2020. After her death Pearl and Petal have taken out I. A. (L) No. 1582 of 2021 seeking to be impleaded as Plaintiffs in place of Monica in the present suit. Pierre consents to Pearl and Petal being joint as Plaintiffs in the place and stead of Monica in the present suit.
4. It is the contention of Pearl and Petal that Monica passed away leaving behind a Will dated 18.11.2017. However, that Will is not subject matter of the present proceeding and it is agreed that the rights and contentions of both sides with respect to the validity of the Will be kept open and are not in any manner determined or prejudiced by what is stated below.
5. Blaise in his lifetime was the owner of flat being Flat No.12 Lovely Home Co-operative Housing Society Limited, 1st Floor, 9 Cuffe Parade, Mumbai – 400 005 and Share Certificate No. 2 in Lovely Home Co-operative Housing Society situated at Cuffe Parade (the Flat and Shares are collectively referred to as “**Lovely Home Premises**”).
6. It was the case of Monica, and it continues to be the case of Pearl and Petal that Blaise in his lifetime also had rights in the family property situated at Goa (“**the Goa Property**”). It is the case of Pierre that Blaise did not have any right in the Goa Property and that same does not form part of his estate, which is not accepted by Pearl and Petal.

PF *[Signature]* *[Signature]*

7. The parties hereto have agreed to amicably resolve their dispute only qua the Lovely Home Premises on the terms and conditions set out below:-

(a) Pierre agrees to relinquish all right, title and interest whatsoever inherited by him in the Lovely Home Premises in favour of Pearl and Petal. In consideration for the same, Pearl and Petal have jointly agreed to pay Pierre a lump sum consideration of Rs.82,50,000/- (Rupees Eighty Two Lakhs Fifty Thousand only) to purchase/ take over/ accept relinquishment of, any and all right, title and interest inherited by Pierre in the Lovely Home Premises.

(b) The relinquishment by Pierre and the corresponding payment of consideration by Pearl and Petal shall take place in the following manner:-

(i) Pearl and Petal shall jointly pay Pierre a sum of Rs. 20,62,500/- (Rupees Twenty Lakhs Sixty Two Thousand Five Hundred Only) being 25% of the entire consideration of Rs.82,50,000/- on or before 1st February, 2021.

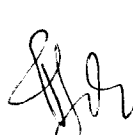
(ii) Pierre shall execute a Deed of Relinquishment/Deed of Transfer/ Deed of Conveyance or a document of such nomenclature required by Pearl and Petal releasing/ relinquishing/transferring/conveying any and all right, title and interest of whatsoever nature held or claimed by him in the Lovely Home Premises in favour of Pearl and Petal jointly on or before 10th March, 2021.

(iii) Pierre shall execute any and all documents required by Pearl and Petal including but not restricted to the necessary forms and letters required for transfer of the share certificate forming part of Lovely Home Premises in favour of Pearl and Petal exclusively and for confirming their exclusive title in respect of the Lovely Home Premises.

(iv) Pearl and Petal shall pay the stamp duty in respect of the Release/ Relinquishment Deed on or before 10th March, 2021.

PF  

- (v) The parties hereto shall remain present before the Sub-Registrar of Assurances on or before 10th March, 2021 for registration of the Release/ relinquishment Deed.
- (vi) Pearl and Petal shall simultaneously on the date of registration of the Deed of Release/ Relinquishment pay the balance consideration of Rs. 61,87,500/- (Rupees Sixty One Lakhs Eighty Seven Thousand Five Hundred Only) by way of a demand draft in favour of Pierre.
- (c) It is clarified that Pierre shall not be required to bear any cost or charges such as stamp duty, society transfer charges etc. for transferring Lovely Home Premises in the joint names of Pearl and Petal.
- (d) In the event Pearl and Petal do not pay the balance consideration of Rs. 61,87,500/- (Rupees Sixty One Lakhs Eighty Seven Thousand Five Hundred Only) to Pierre on or before 10th March, 2021 then, Pierre shall be liable to forfeit the amount paid under clause 7(b)(i) above. It is clarified that in the event Pearl and Petal are ready and willing to pay the balance consideration, but Pierre for whatever reason is not ready and willing to sign the documentation and/or fails to remain present for registration of the documents, then the present clause of forfeiture shall not apply.
- (e) Upon payment of the balance consideration and registration of the Deed of Release/ relinquishment contemplated above, Pierre shall not have nor will he claim any right, title or interest of any nature whatsoever in the Lovely Home Premises.
8. It is agreed and confirmed that the present Consent Terms are restricted only to Lovely Home Premises. The same shall in no manner prejudice the respective rival rights and contentions of the parties in respect of the Goa Property, which contentions of the parties shall be free to take before the Court of appropriate jurisdiction.

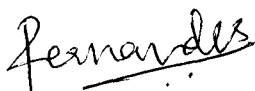
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9. All parties to act upon authenticated copy of these Consent Terms.

Dated this 27th day of January, 2021



Plaintiff No.1



Plaintiff No.2



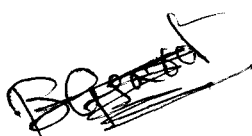
Advocate for the Plaintiffs

Wadia Ghandy & Co.



Advocate for the Defendant





Defendant

X P.V. Fernandes

Defendant

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
TESTAMENTARY SUIT NO. 61 OF 2019

IN

TESTAMENTARY PETITION NO. 2611 OF 2017

Pearl Fernandes Navin&Anr.	... Plaintiffs
<i>Versus</i>	
Pierre Victor Fernandes	...Defendant

CONSENT TERMS

Dated this ^{27th} day of January, 2021

M/s. Wadia Ghandy & Co.,
Advocates for Applicant
123, M. G. Road, Fort
Mumbai - 400 001.
HC/SKM/10217
(Apte/Smn)