

07.04.2022
KC(AD12&13)

F.A. 82 of 2014
Mukul Ranjan Ghosh and Anr.
-versus-
Tapan Kumar Basu and Ors.
With
F.A. 83 of 2014
Mukul Ranjan Ghosh and Anr.
-versus-
Tapan Kumar Basu and Ors.

Mr. Bhudeb Chatterjee,
Mr. Basudeb Ghosh.....For the appellants.

Mr. Sandip Ghose,
Mr. Subrata Das,
Mr. Debayan Ghosh.....For the respondents.

Both the appeals were taken up together.

First we will deal with the objection of Mr. Chatterjee, learned advocate for the appellants with regard to the jurisdiction of the civil court to entertain the suits.

We have carefully scrutinised the West Bengal Buildings (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993. Mr. Chatterjee submitted that Section 12A of the Act imposed a bar on the jurisdiction of the civil courts to entertain and decide any matter arising out of the scope and operation of the Act. The subject matter of the suits was covered by the Act and hence, the authority mentioned

in the Act had the exclusive jurisdiction to decide the issue.

The dispute involved in the suits is plain and simple:

- (a) It is between the vendor (appellant) and the purchaser (respondent) of an immovable property comprising of two flats where the purchaser upon payment of full consideration is in possession of the property.
- (b) The vendor has not executed and registered a proper deed of sale in favour of the purchaser, as a result of which his title to the property, has not been perfected.

The matters which are dealt with or covered by the said Act do not include this kind of dispute arising out of an agreement for sale between a vendor and a purchaser. It deals with different disputes involving the promoter, owner, occupier etc. pertaining to the construction activities with regard to a property.

Hence, in our opinion this objection has no merit and is rejected accordingly.

There is no contradiction of the fact that the respondents have paid the full consideration for the two flats to the appellants and are in possession thereof. In our opinion the appellants have got no valid reasons to

refuse execution and registration of a sale deed in favour of the respondents.

However, Mr. Chatterjee submits that while proceeding with the construction work in the flats, the appellants had incurred certain expenses as long ago in 2000 which have not been paid by the respondents.

In those circumstances we dispose of these appeals by affirming the decree of the learned court below, subject to the following modification.

The respondents in the suits shall pay to the appellants a sum of Rs. 1,00,000/- (One Lac) by 30th April, 2022, which in our best judgment is the unpaid value of the materials and services rendered by the appellants to the respondents in the two flats. Payment of Rs. 1,00,000/- (One Lac) as per our decree and execution and registration of conveyance shall be done simultaneously.

If the respondent makes payment of Rs. 1,00,000/- (One Lac) and the appellant fails to execute and register the deed of conveyance, the same shall be registered within two weeks of such failure by the learned Registrar General of this court or any other senior officer nominated by the learned Registrar General.

The expenses for registration, stamp duty etc. shall be borne by the parties in accordance with the agreement or conveyancing practice.

The impugned decrees in the respective suits in the learned court below are modified to the above extent.

(I.P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)