



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 10th DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

C.S.No.7 of 2018

1.Juliet Asokan,
W/o Devasahayam Asokan @ Dev Asokan.

2.Amirta Asokan,
D/o Devasahayam Asokan @ Dev Asokan.

3.Devasahayam Asokan @ Dev Asokan,
S/o Devasahayam

All three are now residing at
Flat No.B41 & B 42, Twin Courtz,
Kandanchavadi, Perungudi,
Chennai – 600 096.

... Plaintiffs

-Versus-

1.M/s Landmark Housing Projects
Chennai Pvt Ltd.,
Rep by its Managing Director,
No.27, Saravana Street,
T.Nagar,
Chennai – 600 017.

2.T.Udayakumar,
S/o Thulasilingam,
No.27, Saravana Street, T.Nagar,
Chennai – 600 017.

... Defendants

Civil Suit praying that this Hon'ble Court may be pleased to pass a

judgement and decree:

(a) Directing the defendants to pay the plaintiffs a sum of



Rs.9,41,43,053/- together with interest at 18% per annum on

Rs.4,95,00,000/- from the date of suit to till the date of realisation;

(b) direct the defendants to pay costs of the suit;

This Civil Suit coming on this day before this Court for hearing in the presence of Mr.M.Sivavarthanan, Advocate for the plaintiffs herein and Mr.S.Ramesh, Advocate for the defendants herein and upon reading the plaint filed herein and the other exhibits therein referred herein and and upon perusing the evidence adduced therein and the learned counsel for the plaintiff's having submitted that the plaintiffs have proved their case,

it is ordered and decreed as follows:-

That the defendants herein, do pay to the plaintiffs herein, a sum of Rs.13,17,07,450.00/- (Rupees Thirteen Crores Seventeen Lakhs Seven Thousand Four Hundred and Fifty only) with interest at the rate of 18% per annum on the sum of Rs.4,95,00,000/- (Rupees Four Crores Ninety Five Lakhs only) from this date till the date of realization.



costs of this suit as and when taxed by the taxing officer of this court, and noted in the margin thereof.

3. That the connected applications do stand closed, if any.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH
BHANDARI CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 10th DAY OF MARCH 2022.

Sd./-

ASSISTANT REGISTRAR (O.S-I)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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04.04.2022

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C.S.No.7 of 2018

DECREE:

DATED : 10.03.2022

THE HON'BLE MR. JUSTICE
P.VELMURUGAN

FOR APPROVAL: 05.04.2022

APPROVED ON: 06.04.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.03.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.S.No.7 of 2018

1. Juliet Asokan,
2. Amirta Asokan,
3. Devasahayam Asokan @ Dev Asokan

.. Plaintiffs

/versus/

1. M/s.Landmark Housing Projects Chennai Pvt. Ltd.,
Rep by its Managing Director,
No.27, Saravana Street,
T.Nagar,
Chennai 600 017.

2. T.Udayakumar

..Defendants

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the Original Side Rules read with Order IV, Rule 1 of the C.P.C., praying to pass a judgment and decree for:-

(a) Directing the defendants to pay the plaintiffs a sum of Rs.9,41,43,053/- together with interest at 18% per annum on Rs.4,95,00,000/- from the date of suit to till the date of realisation;

(b) direct the defendants to pay costs of the suit;

For Plaintiffs : Mr.M.Sivavarthan

For Defendants : Mr.S.Ramesh

J U D G M E N T

The suit has been filed for recovery of a sum of Rs.9.41 Crores

<https://hcservices.ecourts.gov.in/hcservices/>

with interest at 18 % per annum on Rs.4,95,00,000/- from the date of suit to



till the date of realisation.

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2. Brief facts of the case of the plaintiffs as per the plaint:

The third plaintiff is the husband of the first plaintiff and father of the second plaintiff. The first defendant is a company incorporated under the Companies Act, 1956 and second defendant is the Managing Director of the first defendant Company. The defendants are engaged in the business of construction and promotion of Apartments, Flats and Villas etc., and proposed to construct a residential complex consisting of Villas in a 'Gated Community' under the name and style of 'THE GRANCE' at Palavakkam Village, Sholinganallur Taluk, Kancheepuram District. The plaintiffs, who are Non-Resident Indians, booked a Villa in the aforementioned Villas and paid a sum of Rs.5,00,000/- as advance and the defendants issued allotment letter dated 24.02.2013. As per the allotment letter, the defendants claimed total value of the Villa as Rs.6,20,50,203/-. Thereafter, the plaintiffs paid a total sum of Rs.4,95,00,000 (Rupees Four Crores Ninety Five Lakhs) to the defendants on various dates and the last payment was on 22.01.2014. However, the defendants failed to deliver the possession of Villa within the prescribed time, hence, the third plaintiff demanded refund of the amount with interest and also issued a legal notice dated 14.04.2016 to the defendants. The defendants sent a reply notice dated 27.05.2016 admitting the collection of amount from the plaintiffs and assured that they will



complete the Villa in six months. Even after the reply notice, the defendants neither paid the amount nor completed the Villa. Therefore, the third plaintiff gave a complaint to the Commissioner of Police, Chennai on 22.09.2016, who in turn forwarded the same to the Chennai City Crime Branch (CCB), Vepery. The CCB, Vepery, Chennai, by their communication dated 20.05.2017, informed the plaintiffs that since the complaint is in civil in nature, they have to approach the consumer forum or concerned Civil Court. Hence, the plaintiff is before this Court for recovery of money for a sum of Rs.9.41 Crores along with interest at the rate of 18% per annum.

3. Despite service of summons on the defendants, they have not filed written statement, hence, the defendants are set *ex parte* by this Court vide order dated 12.11.2019.

4. The learned counsel for the plaintiffs submitted that the 3rd plaintiff examined himself as P.W.1 and marked the following documents as Exs.P1 to P23 in order to prove the suit claim :-

1. Ex.P1 is the Email sent by defendants to the 3rd plaintiff dated 28.01.2013.
2. Ex.P2 is the Email sent by defendants to the 3rd plaintiff dated 21.02.2013.
3. Ex.P3 is the receipt issued by the defendants dated 24.02.2013.
4. Ex.P4 is the allotment letter issued by the defendants in the name of 1st and 2nd plaintiffs dated 24.02.2013.



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5. Ex.P5 is the Email sent by the defendants to the 3rd plaintiff dated 11.03.2013.
6. Ex.P6 is the receipt issued by the defendants dated 26.03.2013.
7. Ex.P7 is the endorsement made by Mr.Sundaramurthi an employee of the defendants dated 12.04.2013.
8. Ex.P8 is the endorsement made by Mr.Dinesh
9. Balakrishnan, an employee of the defendants dated 01.05.2013.
- 10.Ex.P9 is the receipt given by Mr.Gopal, an employee of the defendants dated 25.05.2013.
- 11.Ex.P10 is the receipt given by Ms.A.Princy, an employee of the defendants dated 31.07.2013.
- 12.Ex.P11 is the Letter to 2nd and 3rd plaintiffs sent by the defendants dated 29.11.2013.
- 13.Ex.P12 is the Email sent by defendants to the 3rd plaintiff dated 03.01.2014.
- 14.Ex.P13 is the Email sent by 3rd plaintiff to the defendants dated 09.02.2014.
- 15.Ex.P14 is the Email sent by Defendants to the 3rd plaintiff dated 10.02.2014.
- 16.Ex.P15 is the Email sent by 3rd plaintiff to the defendants dated 29.08.2015.
- 17.Ex.P16 is the Email sent by Defendants to the 3rd plaintiff dated 01.09.2015.
- 18.Ex.P17 is the Email sent by Defendants to the 3rd plaintiff dated 16.09.2015.



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19.Ex.P18 is the Email sent by 3rd plaintiff to the defendants dated 30.12.2015.

20.Ex.P19 is the legal notice issued by the plaintiffs to the defendants dated 14.04.2016.

21.Ex.P20 is the Reply notice by the defendants dated 27.05.2016.

22.Ex.P21 is the Complaint by the 3rd plaintiff to police with acknowledgment dated 22.09.2016.

23.Ex.P22 is the Assessment order passed by Income Tax Department, dated 30.12.2016.

24.Ex.P23 is the Closure report by police dated 20.05.2017.

5. The learned counsel for the plaintiffs further submitted that the plaintiffs have proved their case by oral and documentary evidence and the suit has to be decreed.

6. Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P23, this Court is of the view that the plaintiffs have proved their case and the suit is liable to be decreed. Accordingly, the suit is decreed as prayed for with costs. Consequently, connected applications are closed, if any.

Sd./- P.V.J
10.03.2022

APPENDIX

I. Witnesses :

<i>Plaintiffs :</i>	
PW1	Mr. Devasahayam Asokan @ Dev Asokan

**II. Exhibits :**

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<i>For Plaintiffs :</i>		
<i>Exhibits</i>	<i>Description</i>	<i>Dated</i>
Ex.P1	Email sent by defendants to the 3 rd plaintiff.	28.01.2013
Ex.P2	Email sent by defendants to the 3 rd plaintiff dated	21.02.2013
Ex.P3	Receipt issued by the defendants.	24.02.2013
Ex.P4	Allotment letter issued by the defendants in the name of 1 st and 2 nd plaintiffs	24.02.2013
Ex.P5	Email sent by the defendants to the 3 rd plaintiff.	11.03.2013
Ex.P6	Receipt issued by the defendants	26.03.2013
Ex.P7	Endorsement made by Mr. Sundaramurthi an employee of the defendants	12.04.2013
Ex.P8	Endorsement made by Mr.Dinesh Balakrishnan, an employee of the defendants	01.05.2013
Ex.P9	Receipt given by Mr.Gopal, an employee of the defendants	25.05.2013
Ex.P10	Receipt given by Ms.A.Princy, an employee of the defendants	31.07.2013
Ex.P11	Letter to 2 nd and 3 rd plaintiffs sent by the defendants	29.11.2013
Ex.P12	Email sent by defendants to the 3 rd plaintiff	03.01.2014
Ex.P13	Email sent by 3 rd plaintiff to the defendants	09.02.2014
Ex.P14	Email sent by Defendants to the 3 rd plaintiff	10.02.2014
Ex.P15	Email sent by 3 rd plaintiff to the defendants	29.08.2015

**For Plaintiffs :**

Ex.P16	Email sent by Defendants to the 3 rd plaintiff	01.09.2015
Ex.P17	Email sent by Defendants to the 3 rd plaintiff	16.09.2015
Ex.P18	Email sent by 3 rd plaintiff to the defendants	30.12.2015
Ex.P19	Legal notice issued by the plaintiffs to the defendants	14.04.2016
Ex.P20	Reply notice by the defendants	27.05.2016
Ex.P21	Complaint by the 3 rd plaintiff to police with acknowledgment	22.09.2016
Ex.P22	Assessment order passed by Income Tax Department	30.12.2016.
Ex.P23	Closure report by police	20.05.2017

Sd./- P.V.J
10.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

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