

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
O.S. SUIT NO. 502 OF 2017

Haresh Harchand Lalwani

Aged : 48 years, Occu: Business,

Having address at C-806, Oberoi
Springs, Link Road,

Andheri (West), Mumbai – 400 053

.... PLAINTIFF

V/s.

1. M/s. Parthesh Developer,

A Partnership Firm registered under
the provisions of Indian Partnership Act,
1952, having its registered Office at:

1, Mangal Simran, 28th Road,

Bandra(West), Mumbai-400 050.

2. Nirav Pravinkumar Shah

Aged: 49 years, Occu: Business,

Residing at Plot No.124, Kamla Heritage,

A, 7th Floor, Gulmohor Cross Road No.10,

JVPD Scheme, Mumbai – 400 049.

3. Monica Nirav Shah

Aged: 44 years, Occu: Business,

Residing at Plot No.124, Kamla Heritage,

A, 7th Floor, Gulmohor Cross Road No.10,

JVPD Scheme, Mumbai – 400 049.

4. Bank of Baroda

A body Corporate constituted under

Banking Companies (Acquisition &

Transfer of Undertakings) Act, 1970

and having it's Head Office at Mandvi

Baroda, Gujarat and Branch Office at

Meghdoot Building, 1st Floor, Junction

Of Linking Road & Turner Road,

Bandra (West), Mumbai – 400 050

.... DEFENDANTS.

**CONSENT TERMS BETWEEN PLAINTIFF AND
DEFENDANT NOS.1 TO 3**

1. The Plaintiff has filed the present Suit for specific performance of the Memorandum of Understanding dated 13th February, 2014 entered into between the Plaintiff and the Defendant Nos.1 to 3 for the sale of the residential Flat No. B/503

on the 5th Floor of the building known as Ganga Jamna Sangam Co-operative Housing Society Ltd., situate at Plot bearing CTS No. F/111 and F/115 of Village Bandra, 14th & 24th Road, Khar (West), Mumbai - 400052 (hereinafter referred to as "suit premises" for the sake of brevity).

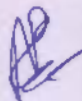
2. That in pursuance to the Development Agreement dated 23rd February, 2011 entered into between the Ganga Jamna Sangam Co-operative Housing Society Ltd. and the Defendant No.1 i.e. M/s Parthesh Developers, the Defendant No.1 after obtaining necessary permissions constructed a commercial-cum-residential building consisting of basement, ground floor and eleven upper floors known as Ganga Jamna Sangam Co-operative Housing Society Ltd., on the said Plot bearing CTS No. F/111 and F/115 of Village Bandra, 14th & 24th Road, Khar (West), Mumbai 400 052.

3. That under a Memorandum of Understanding dated 13th February, 2014, the Defendant Nos. 1 to 3 have agreed to sell to the Plaintiff the Flat No. B/503 on the 5th Floor of the building



known as Ganga Jamna Sangam Co-operative Housing Society Ltd., situate at Plot bearing CTS No. F/111 and F/115 of Village Bandra, 14th & 24th Road, Khar (West), Mumbai - 400052 for a total consideration of Rs.5,50,00,000/- (Rupees Five Crore and Fifty Lacs only). The Defendant No.1 has received an amount of Rs.2,25,00,000/- (Rupees Two Crores Twenty Five Lakhs Only) from the Plaintiff towards the consideration of the suit premises.

4. That the Defendant Nos.1 to 3 had taken financial assistance from the Defendant No.4 Bank of Baroda for carrying out the said development and had mortgaged the Flats in the Sale Component of the said Ganga Jamna Building with the Defendant No.4 Bank as Security. That as the Defendant Nos.1 to 3 were unable to repay the loan taken from the Defendant No.4 Bank, the Defendant No.4 Bank had initiated proceedings under Section 13(4) of the Securitization and Reconstruction of Financial Assessment and Enforcement of Security Interest Act, 2002 for taking possession of the project site and construction located on



Plot No.463 & 480, TPS III, CTS Nos. F/111 & F/115 of Village Bandra, 14th Road & 24th Road, Khar (West), Mumbai.

5. That by an Order dated 7th July, 2017 passed in Notice of Motion (L) No.1366 of 2017 in Suit No.502 of 2017 this Hon'ble Court was pleased to restrain the Defendant No.4 Bank from selling the suit premises in pursuance to the action initiated under the Securitization and Reconstruction of Financial Assessment and Enforcement of Security Interest Act, 2002.

6. That during the pendency of the present Suit the Defendant Nos.1 to 3 have repaid all the dues of the Defendant No.4 Bank and the Defendant No. 4 Bank has released its charge over the suit premises. That in view of the settlement of the dues of the Defendant No.4 Bank, the Defendant Nos.1 to 3 have approached the Plaintiff and offered to execute the Conveyance of the suit premises in favor of the Plaintiff.

7. That considering the troubles suffered by the Plaintiff due to the default committed by the Defendant Nos.1 to 3 in completing the development project, the Defendant Nos.1 to 3



have agreed to sell the suit flat to the Plaintiff at reduced consideration of Rs.3,35,00,000/- (Rupees Three Crore Thirty Five Lakhs Only). The Defendant Nos.1 to 3 have already completed the construction of the new building and hence the RERA Registration Certificate obtained by them for the construction of the Ganga Jamna Building has also expired and the same has not been renewed in view of completion of the project.

8. The Plaintiff and Defendant Nos.1 to 3 have mutually discussed and agreed to amicably resolve their disputes on the following terms and conditions :

- a. The Defendant Nos.1 to 3 agree and admit that the said Memorandum of Understanding dated 13th February, 2014 entered into between the Plaintiff and the Defendant Nos.1 to 3 for the sale of the residential Flat No. B/503 on the 5th Floor of the building known as Ganga Jamna Sangam Co-operative Housing Society Ltd., situate at Plot bearing CTS No. F/111 and F/115 of Village Bandra, 14th & 24th Road,

Khar (West), Mumbai - 400052 is still valid, subsisting and binding on them.

- b. The Defendant Nos.1 to 3 agree and admit the receipt of Rs.2,25,00,000/- (Rupees Two Crores Twenty Five Lakhs Only) from the Plaintiff towards the part consideration of the suit premises i.e. residential Flat No. B/503 on the 5th Floor of the building known as Ganga Jamna Sangam Co-operative Housing Society Ltd., situate at Plot bearing CTS No. F/111 and F/115 of Village Bandra, 14th & 24th Road, Khar (West), Mumbai - 400052.
- c. The Defendant Nos.1 to 3 agree and undertake to execute and register the an Agreement as contemplated under Section 4 of the Maharashtra Ownership of Flats Act, 1963 in favor of the Plaintiff for the sale of the residential Flat No. B/503 on the 5th Floor of the building known as Ganga Jamna Sangam Co-operative Housing Society Ltd., situate at Plot bearing CTS No. F/111 and F/115 of Village Bandra, 14th & 24th Road, Khar (West), Mumbai - 400052

for the total consideration of Rs.3,35,00,000/- (Rupees Three Crore Thirty Five Lakhs Only) and put the Plaintiff in possession of the said premises for carrying out fit out of furniture and fixtures immediately on execution of the present Consent Terms.

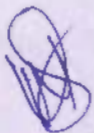
- d. The Plaintiff agrees and undertakes to pay to the Defendant Nos.1 to 3 an amount of Rs.1,10,00,000/- (Rupees One Crore Ten Lakhs Only) after deducting the applicable TDS towards the balance consideration for the sale of the residential Flat No. B/503 on the 5th Floor of the building known as Ganga Jamna Sangam Co-operative Housing Society Ltd., situate at Plot bearing CTS No. F/111 and F/115 of Village Bandra, 14th & 24th Road, Khar (West), Mumbai - 400052 on the Defendant Nos.1 to 3 obtaining the Occupation Certificate in respect of the entire building or upon the Defendant No.1 obtaining NOC/confirmation of the Ganga Jamna Sangam Co-operative Housing Society Limited to admit the Plaintiff as member of the society.



e. The Plaintiff and Defendant Nos.1 to 3 agree that on execution of the Agreement as contemplated under Section 4 of the Maharashtra Ownership of Flats Act, 1963 in favor of the Plaintiff for sale of the suit premises the Plaintiff will be entitled to hold and occupy the suit premises as Owner thereof and shall be fully entitled to deal with the suit premises in any manner as deems fit to the Plaintiff without any recourse to Defendant Nos. 1 to 3.

f. The present Consent Terms contains the entire agreement and understanding between the Parties with respect to the settlement of the said Suit.

g. The Plaintiff and the Defendant Nos.1 to 3 agree, confirm and declare that they have understood the true meaning of the understanding recorded herein and have signed this Consent Terms by their own free will and volition, without any pressure, coercion, undue influence or otherwise.

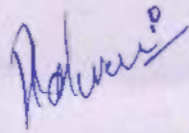


- h. The drawn up decree is dispensed with.
- i. The present Suit be disposed off in terms of the present Consent Terms.

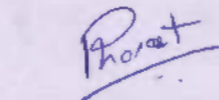
Mumbai

Dated this 19th June, 2023

Plaintiff

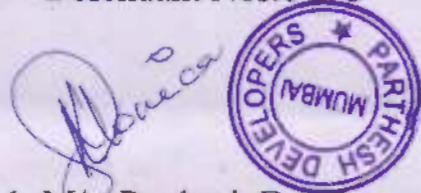


Haresh Harchand Lalwani



Advocate for Plaintiff

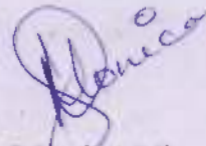
Defendant Nos.1 to 3



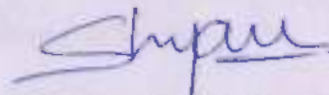
1. M/s. Parthesh Developer



2. Nirav Pravinkumar Shah



3. Monica Nirav Shah



Advocate for Defendant Nos.1 to 3

IN THE HIGH COURT OF JUDICATURE AT
BOMBAY

ORDINARY ORIGINAL CIVIL
JURISDICTION

O.S. SUIT NO. 502 OF 2017

Haresh Harchand Lalwani

...Plaintiff

Versus

Parthesh Developer & Ors

...Defendants

CONSENT TERMS

This 19th day of June, 2023

Pradeep J. Thorat
Advocate for Plaintiff
Office No.31, Prospect Chamber Annex,
6, Pitha Street, Fort,
Mumbai 400 001
Ph No.022-22800200