IN THE COURT OF DISTRICT JUDGE-03
NORTH DISTRICT, ROHINI COURT, NEW DELHI
PRESIDING OFFICER MS. AANCHAL, DHJS

CNR No. DLNT010049682024
CS DJ/288/2024

In the matter of :-

Rajan Dua
S/o Sh. Kastoori Lal Dua,
R/o H. No. 43-44, 3rd Floor,
Priyadarshni Vihar, Part-I,
Dr. Mukharjee Nagar, Delhi-110009. …………Plaintiff

Versus

Mohit Sharma
S/o Lt. Sh. Om Prakash Sharma,
R/o A-149, Majlis Park, New Delhi- 110033 ………..defendant

Date of institution of suit	:	10.04.2024
Date of Final Arguments heard	:	06.06.2026
Date of pronouncement of judgment	:	18.07.2026

JUDGMENT

1. Vide this judgment, this Court shall decide the suit seeking recovery of sum of Rs. 32,20,000/- (Rupees Thirty Two Lakh Twenty Thousands Only) alongwith interest @ 15 % per annum and besides this, pendente lite and future interest @ 18% per annum against the defendant.

2. It is stated by the plaintiff in the plaint that :-

(i) The defendant was acquainted with the plaintiff for a long time. Around May–June 2022, the defendant discussed his financial difficulties and proposed to sell the entire upper ground floor without roof rights, forming part of freehold built-up property bearing No. A-149, measuring 180 Sq. Yds. (150.50 Sq. Mtrs.), out of Khasra No. 262/258/217/4, situated in Village Bharola Colony, known as Majlis Park, Delhi-110033. That on the representation of the defendant, the plaintiff agreed to help him and expressed his interest in purchasing the said upper ground floor. The parties agreed to a total sale consideration of Rs. 1,67,00,000/-. The defendant assured the plaintiff that the property was freehold and free from all encumbrances, undertook to produce the relevant records showing its freehold status before the competent authorities, and further assured that he would neither negotiate nor receive any earnest money from any third party till execution of the sale documents in favour of the plaintiff. Accordingly, the plaintiff paid earnest money of Rs. 32,20,000/- in cash, arranged from his own sources. An Agreement to Sell/Bayana dated 25.07.2022 was executed between the parties in the presence of two witnesses, namely Lucky Aggarwal and Mohit Awasthi. The defendant also appeared before the Notary Public and the document was entered in the Notarial Register at Serial No. 1592 dated 25.07.2022, where the defendant signed and affixed his thumb impression on each page of the four-page agreement.

(ii) That it was agreed that the defendant would produce the complete chain of title documents, approved sanctioned building plan, proof of freehold status, and other necessary documents. It was also agreed that after completion of all formalities, including newspaper publication by the plaintiff, the final Sale Deed in respect of the upper ground floor would be executed on or before 01.02.2023. The plaintiff repeatedly requested the defendant to produce the requisite documents and take the steps required for finalizing the stage for execution of the Sale Deed. However, the defendant failed to produce the documents or give any satisfactory response and kept avoiding his obligations on one pretext or another.

(iii) That the plaintiff subsequently learnt through common friends that the defendant was negotiating the sale of the said upper ground floor with another person and had also received earnest money from such person. On confronting the defendant, he avoided giving any clarification and continued to make lame excuses without justification. The plaintiff demanded refund of the earnest money of Rs. 32,20,000/- in January 2023. Though the defendant sought further time for repayment, he avoided recording the same in writing despite requests made by the plaintiff and the attesting witnesses. Thereafter, the plaintiff issued a legal notice dated 14.10.2023 through Speed Post dated 16.10.2023 demanding refund of the earnest money and despite service of the legal notice demanding refund of Rs. 32,20,000/-, the defendant neither refunded the amount nor sent any reply to the notice. Finally, present suit is filed seeking recovery of Rs. 32,20,000/- (Rupees Thirty Two Lakh Twenty Thousands Only) against the defendant.

3. Summons for settlement of issues were issued to the defendant and he was served electronically. Despite the service, defendant failed to appear and he was proceeded ex-parte vide order dated 12.09.2024 passed by Ld. Predecessor of this Court.

4. Plaintiff appeared into the witness box as PW-1. He further produced Sh. Mohit Awasthi as PW-2 and Sh. Lalit Kumar, Process Server, North District, Rohini Court, Delhi as PW-3. In totality following documents were produced before this Court:-

Agreement to sell/Bayana dated 25.07.2022	Ex. PW1/1 (OSR)
Office copy of legal notice dated 14.10.2023	Ex. PW1/2
Service of dasti summons	Ex. PW1/3

5. Final arguments are heard and record is perused carefully.

6 Plaintiff has deposed in the lines of the plaint and he also produced agreement to sell/Bayana dated 25.07.2022 i.e. Ex. PW1/1. This agreement to sell recites that plaintiff has paid Rs. 32,20,000/- in cash on 25.07.2022 as Bayana and the defendant admits and acknowledges the receipt for the same. Sh. Mohit Awasthi s/o Lt. Sh. Sudharshan Awasthi as PW-2 who is one of the attesting witnesses of Ex. PW1/1 has also deposed this fact. The defendant has not appeared before the Court to deny his signatures or thumb impression on Ex. PW1/1 or oral testimonies. Therefore, the oral deposition of the plaintiff is substantiated with the documentary evidence i.e. Ex. PW1/1 and oral deposition of PW-2 Mohit Awasthi. These pieces of evidences are not rebutted by the defendant at all. Hence, it is held proved that plaintiff paid Rs.

32,20,000/- in cash to the defendant. Though this huge transaction made in cash, it is patent violation of Section 269 SS of Income Tax Act, 1961 and it attracts the penal consequences under the Income Tax Act but such transactions are not void illegal or inexistent as per law. So, despite breach of provision of Income Tax Act, 1981, this transaction cannot be held illegal. Reference in this regard is made to **Birmala Projects Pvt. Ltd. vs Ashwani Ahluwalia & Anr. decided by Hon'ble High Cour of Delhi on 18 February, 2025** wherein**,** it is held that :-

> *"34. A combined reading of the decision of the Supreme Court with the various decisions of this Court, makes it clear that mere non-compliance with the provisions of Section 269 ST does not ipso facto render a transaction void. The provisions are regulatory in nature, aimed at curbing tax evasion and are not intended to invalidate genuine transactions. Consequently, while a violation may invite penal consequences, it does not annihilate the enforceability of the underlying agreement or transaction.".*

This is also laid down in **Jagan Nath Vs. Hari Kishan, 2017 Supreme (P&H) 1286.**

Plaintiff has also deposed that sale deed in pursuance of agreement to sell is not executed since the defendant did not proceed to take steps for finalizing the stage of registration of sale deed and defendant though agreed to return this earnest money when asked, he started avoiding to return the same later. Once the defendant failed to perform his part of performance, this is a breach of contract on his part. As per Section 73 of The Indian Contract Act, 1872 when a contract has been broken, the party who suffers by such breach is entitled to receive from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from this breach, or which the parties knew when they made the contract, to be the likely to result from the breach of it. So, in case in hand where defendant has committed breach of contract, defendant is liable to make good the loss suffered by the plaintiffs which is minimum to the tune of sum of Rs. 32,20,000/- i.e. the sum paid by the plaintiff to the defendant as earnest money. Therefore, the plaintiff is held entitled for the recovery of sum of Rs. 32,20,000/- i.e. the sum from the defendant.

7. So far further claim of interest part is concerned, plaintiff has claimed interest at the rate of 15% on the earnest money. As per clause 9 of agreement to sell i.e. Ex. PW1/1, defendant is liable to pay 15% interest if the terms and condition of this agreement is infringed. Defendant has not appeared to rebut this but this Court is of the view that this claimed rate of interest is exorbitant one, so can not be allowed. Hon'ble Apex Court in **Pt. Munshi Ram & Associates (P) Ltd. Vs. DDA, 2010 SCC Online Del 2444** and the Hon'ble High Court in **Shri Sanjay Mittal Versus Sunil Jain, AIR ONLINE 2018 DEL 2509**, did not approve such high rates of interest even when such rate of interest is agreed upon by the parties. Thus, considering these pronouncement, this Court deems that rather than interest at claimed rate, the simple interest at the rate of 8% per annum to be paid by the defendant on the sum to be recovered is just and reasonable, taking into account the prevalent rates of interest in banks.

Relief

8. In view of above discussion, suit of the plaintiff is hereby decreed for a sum of Rs. 32,20,000/- (Rupees Thirty Two Lakhs Twenty thousands only) alongwith simple interest at the rate of 8 % per annum from date of advancement till realization against defendant.

Decree sheet be prepared accordingly. Thereafter, file be consigned to record room.

Announced in open
Court on 18.07.2026 at 3:15 PM

AANCHAL Digitally signed by AANCHAL Date: 2026.07.18 16:39:39 +0530

(Aanchal)
District Judge-03
North District, Rohini Courts, Delhi