

IN THE COURT OF THE II ADDITIONAL SUBORDINATE JUDGE, COIMBATORE

Present : Thiru. P. Gowdhaman, B.A., B.L.,

II Additional Subordinate Judge, Coimbatore.

Friday this the 12th day of April - 2024

Original Suit No.1166/2023

R. Arumugam

..Plaintiff

--Versus--

1. C.Muthusamy,

2. CRM Arjun Associated Housing

Promoters Pvt Ltd., rep.,

by its Proprietor C. Muthusamy

...Defendants

This suit coming on 14.03.2024 for final hearing before me in the presence of Thiru. R. Sunder, Advocate for the plaintiff, and plaintiff side argument heard and the defendants remained exparte and upon perusing the plaint connected records and having stood over till this day for consideration this court delivered the following:

J U D G M E N T

Suit is filed for recovery of Money and also for cost.

1. THE BRIEF AVERMENTS IN THE PLAINT READ AS FOLLOWS:

The 1st defendant is proprietor of 2nd Defendant. The Defendant's nature of business is that they are promoters of forming the layout site and selling house site to willing purchasers. The defendants were forming a Layout under Name and style of CRM Thayar Garden, in that CRM Thayar Garden which is situated at near by Kovilpalayam, Sakthi Road, Coimbatore. In that layout site,

the site No. 87 its measuring about 470 sq.ft was allotted to the plaintiff. The said site value was fixed a sum of Rs. 6,20,000/-. The defendants' were selling the above said layout site on based upon the installment scheme.

The plaintiff has paid a sum of Rs. 6,20,000/- on various days to the defendants, the payment details are follows.

SI.NO	DATES	AMOUNTS(RS)
01.	14.09.2015	Rs. 2,00,000.00
02.	01.10.2018	Rs. 50,000.00
03.	06.11.2015	Rs. 50,000.00
04.	09.12.2015	Rs. 30,000.00
05.	25.12.2015	Rs. 20,000.00
06.	12.01.2016	Rs. 30,000.00
07.	25.02.2016	Rs. 10,000.00
08.	29.02.2016	Rs. 30,000.00
09.	15.04.2016	Rs. 20,000.00
10.	08.06.2016	Rs. 20,000.00
11.	06.08.2016	Rs. 20,000.00
12.	19.09.2016	Rs. 20,000.00
13.	21.11.2016	Rs. 20,000.00
14.	05.01.2017	Rs. 10,000.00
15.	04.10.2017	Rs. 5,000.00
16.	24.03.2017	Rs. 20,000.00
17.	17.10.2017	Rs. 10,000.00
18.	20.03.2018	Rs. 5,000.00
19.	27.10.2018	Rs. 50,000.00
	Total of	Rs. 6,20,000.00

He has paid entire amount of Rs. 6,20,000/- to the defendants for the value of site No. 87 its measuring about 1470 sq.ft which is situated CRM Thayar Garden near by Kovilpalayam, Sakthi Road, Coimbatore. The plaintiff is always ready and willing to purchase the above said site. As per promise /undertaking

given by the Defendants, they are liable to execute sale deed in favour of plaintiff. In spite of repeated demands made by the plaintiff, the defendants wilfully failed to execute sale deed and they were postponing executing the sale deed under some pretext or others.

Again repeated demands made by the plaintiff, finally the 1st defendant states that he ha unable to execute sale deed with regard of site bearing No. 87, he promised is that to execute another one site at measuring about 1470sq ft in CRM Thayar Garden, Which is situated at near by Kovilpalayam, Sakthi Road, Coimbatore, failing which they have agreed to return the amount of Rs. 6,20,000/- to the plaintiff. They have not executed sale deed. On the same day, he has executed an undertaking to the plaintiff, agreed to pay the balance amount of Rs. 3,20,000/- with in three month from date of undertaking deed.

Even after executed the undertaking deed dated 16.08.2021, the defendants have neither execute sale deed not to pay their due amounts. In spite of repeated demands, the 1st defendant has again executed another one undertaking deed on 19.04.2022, agreed to executed sale deed or return the amounts. Even after executed the 2nd undertaking deed, they have failed to execute sale deed or return the amounts. Again in spite of repeated demands, the 1st defendants has executed third one undertaking deed on 12.07.2022, agreed to executed a sale deed or return the amounts. Even after executed the undertaking deed, they have failed to do their promise. The defendants were postponing paying their due amount under some pretext or other. They have wilfully negligent to pay their due amount to the plaintiff. Their acted is against

Law and fact. With an intention to Cheat and defraud of the plaintiff, they have failed to their performance.

As per contract, custom and trade usage, the defendants are liable to pay interest at 18% annum to the plaintiff for that above said amount from 27.10.2018 to till the date of realization. On 27.10.2018 itself he has paid entire value of the site. As on date, the plaintiff is residing in rental house, if the defendants are execute sale deed in time, the plaintiff has put up house building in that site, the rental amount of Rs. 10,000/- may be remains which is paid not. Due to the defendants' act, the plaintiff has suffered loss of amount of Rs. 5,00,000/- towards rental amount. Further the plaintiff has suffered heavy mental agony, the defendants are liable to pay a sum of Rs. 10,00,000/- towards loss of rental amount and mental agony. From 14.09.2015 to filing to this case, the conduct of the plaintiff and defendants are open, continues in nature, therefore the suit is in time. The plaintiff submits that the defendants are not entitled to benefits conferred under any of the Debt Relief Act. The Conduct of the defendants in with-holding the amount is highly illegal and improper. Hence, the plaintiff is entitled to claim interest at the contractual rate of 18% per annum. The defendants are liable to pay of Rs. 6,20,000.00/- with interest at rate of 18% per annum from the date of 14.09.2015 to till this date. The 1st defendant has paid a sum of Rs. 3,00,000/- to the plaintiff on 16.08.2021. The defendants are liable to pay remaining amount of Rs. 3,20,000/- with interest from 16.08.2021 to this date. In view of the conduct of the defendants, the plaintiff is obliged to come forward with his suit for recovery of money. Hence the suit.

2. POINT FOR CONSIDERATION :

Whether the plaintiff is entitled for the suit claim as prayed for?

During the evidence of the plaintiff, the plaintiff namely Thiru. Arumugam, was examined as PW.1 and Ex.A1 to Ex.A5 were marked. As against the oral and documentary evidence of PW.1 and Ex.A1, to Ex.A5, no contra evidence is available on record on the side of defendant. Hence, considering the evidence of PW.1 and Ex.A1 to Ex.A5 document is not denied it is decided the defendants to repay the plaintiff the sum of Rs.8,32,985/- together with interest @ 18% p.a., on Rs.6,02,720/- from the date of suit till date of realization.

Hence, the plaintiff has proved his case. In the result, The suit is decreed as prayed for with cost. The defendants to repay the plaintiff the sum of Rs.8,32,985/- together with interest @ 6% p.a., on Rs.6,02,720/- from the date of suit till date of realization.

Dictated to the typist and typed by him directly in the system directly corrected and pronounced in the Open Court this 12th day of April - 2024.

Sd/- P. Gowdhaman
II Additional Subordinate Judge,
Coimbatore.

List of witness examined on the side of the Plaintiff :

P.W.1 - Thiru. Arumugam,

Document marked on the side of the Plaintiff :

Ex. A1	14.09.2015, 01.10.2015, 06.11.2015	Receipt given by the 1 st defendant to Plaintiff Serial Nos.3
Ex. A2	09.12.2015 to 27.10.2018	Receipt given by the 1 st defendant to Plaintiff Serial Nos.16

Ex. A3	16.08.2021	Undertaking deed executed by 1 st defendant to plaintiff
Ex. A4	19.04.2022	Undertaking deed executed by 1 st defendant to plaintiff
Ex. A5	12.07.2022	Undertaking deed executed by 1 st defendant to plaintiff

Sd/- P. Gowdhaman
 II Additional Subordinate Judge,
 Coimbatore.

Fair/Draft Judgement
 O.S.1166/2023
 12.04.2024

IN THE COURT OF THE II ADDITIONAL SUBORDINATE JUDGE, COIMBATORE

Present : Thiru. P. Gowdhaman, B.A., B.L.,

II Additional Subordinate Judge, Coimbatore.

Friday this the 12th day of April - 2024

Original Suit No.1166/2023

R. Arumugam, S/o. Ramu, aged 38 years, residing at 11/2A, Sri Venkadachala Perumal Nagar, Near PPG Nursing Collage, Keeranatham, Saravanampatti, Coimbatore - 641 035 now residing at 101 Janatha Nagar, Sivanathapuram, Saravanampatti, Coimbatore - 641 035.

...Plaintiff

--Versus--

1. C. Muthusamy, S/o. Chinnasamy, aged about 57 years, residing at D.No.157, Thiru Nagar, (CRM Arjun City), Sivanatha Mill Road, Villankurichi, Coimbatore - 641 035.

2. CRM Arjun Associated Housing Promoters PVT LTD., representative by its Proprietor C. Muthusamy, having office at 33, 1st Floor, Ramakrishna Puram, Sathy Road, Ganapathy, Coimbatore - 641 006.

...Defendants

Suit is filed for recovery of money and also for cost.

Date of Suit : 30.08.2023
Cause of action arose on : 14.09.2015, 16.08.2021, 19.04.2022,
12.07.2022 at Coimbatore.

The suit is valued for the purpose of court fees and jurisdiction at Rs.8,32,985/- and court fee of Rs.24,990/- is paid thereon under section 22 of the T.N.C.F. and S.V. Act

Details Of Valuation

a) Amount due - Rs.6,20,000/-

Interest @ 18 p.a Calculated from 27.10.2018 to till 16.08.2021	-	Rs.2,82,720/-

Total Amount of	-	Rs.9,02,720/-
Less: On 16.08.2021 the 1 st defendant paid of	-	Rs.3,00,000/-

Balance amount of	-	Rs.6,02,720/-
Interest @ 18 p.a calculated from 16.08.2021 to till 30.08.2023	-	Rs.2,32,985/-

Total amount of	-	Rs.8,32,985/-
b) Court Fees under Section 22	-	Rs.24,990/-.

This suit coming on 14.03.2024 for final hearing before me in the presence of Thiru. R. Sunder, Advocate for plaintiff and the defendant served and the defendant called absent and set as party and this Court doth order and direct as follows:

1. that the defendant is directed to pay to the plaintiff a sum of Rs.8,32,985/- together with interest at the rate of 6% per annum for above said amount from the date of suit till date realization.
2. that the defendant is directed to pay a sum of Rs.39,607/- as cost.

செலவுத் தொகை பட்டியல்

வாதி தரப்பில்	தொகை	பிரதிவாதி தரப்பில்	தொகை
தாவாவிற்ரு ஸ்டாம்பு	24,990.00		
வக்காலத்து ஸ்டாம்பு	10.00		
தாவா அறிக்கை/பதிலறிக்கை செலவு கட்டணம்	100.00	-	-
கட்டளைகளை சேர்ப்பிக்க ஸ்டாம்பு	-		
வழக்குரைஞர் சீனியர் கட்டணம்	10,880.00		
வழக்குரைஞர் ஜூனியர் கட்டணம்	3,627.00		
மொத்தம்	39,607.00		

Given under my hand and the seal of this Court the 12th day of April - 2024

Sd/- P. Gowdhaman
II Additional Subordinate Judge,
Coimbatore.