

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO. 2698 OF 2002

Ram Prakash Anand	.. Plaintiff
Vs.	
Devinder Devraj Ghai	.. Defendant

Mr. Rupesh Lanjekar i/b. Atul Damle for the Plaintiff.

Mr. D.V. Deokar a/w. Mr. Subodh Joshi, Mr. Pinakin Modi i/b. M/s. Parimal Shroff & Co. for the Defendant in the Suit and Plaintiff in Counter Claim.

**CORAM : K.R.SHRIRAM, J.
DATED : 20TH AUGUST, 2014**

P.C.

1 The following issues arise in the suit and the counterclaim:

[The Plaintiff and Defendant to Counter Claim are referred as Defendant and Plaintiff respectively for convenience]

1. Whether the Agreement for Sale dated 31st May, 1984 and further Agreement for Sale of April, 1992 are valid, subsisting and binding upon the parties?
2. Whether the Defendant is entitled for Specific performance of the Agreement for Sale dated 31st May, 1984 and further Agreement of April, 1992?
3. Whether the Plaintiff proves that Defendant has failed and neglected to perform his part of the obligations under Agreement dated 31st May, 1984?

4. Whether the Plaintiff proves that he is entitled for Order and Decree in the sum of Rs.20,39,76,402/- together with interest @ 18% p.a. from the date of filling of the Suit till realization towards loss and damages against the Defendant?
5. Whether the Plaintiff is entitled for an order of injunction against the Defendant, his agent, servant or any person claiming through and under him from encroaching upon Plot No.6 and 7 situated at survey No.87, CTS No.1195 at Versova, Andheri (West), Mumbai?
6. Whether the Defendant proves that the Plaintiffs put the Defendant in possession of Plot Nos.6, 7 and 10 in terms of the Agreement for Sale dated 31st May, 1984 on the date of execution thereof?
7. Whether the Defendant proves that the Plaintiff failed to obtain sanctioned Building Plans for residential FSI on the said Plot No.10 for estimated 60,000 sq.fts. as set out in the Agreement for Sale dated 31st May, 1984?
8. Whether the Defendant proves that due to non compliance of the Terms and Conditions of the sanctioned Layout of Sub-division dated 13th April, 1975, the Defendant could not get the Plans sanctioned from the MCGM and complete the constructions within the estimated time?

9. Whether the Defendant proves that with consent of the Plaintiffs the Defendant got the Plot No.6, Plot No.7 and Plot No.10 amalgamated and got the sanctioned Amalgamated Plan on 28th April, 1986?
10. Whether the Defendant proves that the Occupation Certificate could not be obtained of Wing “A”, “B” and “C” as Plaintiff failed and neglected to hand over area falling under D.P. Road set back and J.P. Road set back and the area falling under the proposed D.P. Road along with other co-owners of the larger property?
11. Whether the Defendant proves that the Defendant pay Rs.3,80,186/- for the period between 1st April, 1994 to 31st March, 1995 towards the unpaid maintenance charges in respect of flat belonging to the Plaintiffs to the Society?
12. Whether the Defendant proves that the Defendant provided two flats admeasuring approx. 1475 sq.fts. each bearing Flat No.1301 and 1302 on aggregating 2950 sq. ft. on 13th floor of ‘B’ wing of Sanjeev Enclave to the Plaintiff on 12th August, 1999 in lieu of single flat of 2500-3000 sq. ft. as originally agreed in the Agreement for Sale as mutually agreed between the Plaintiffs and the Defendant?
13. Whether the Defendant is entitled for an Order and Decree against the Plaintiff in sum of Rs.15,00,00,000/- on account of damages and further decree in the sum of Rs.6,39,48,446/- with interest @ 24% p.a. on Rs.9,37,186/- from the date of the filling of the Suit till payment and or realization as per Particulars of Claim Exhibit –“F” to

the Counter Claim?

14. What decree ? What order ?

2 The plaintiff to file their list of witnesses, affidavit in lieu of examination in chief together with compilation of documents and serve copy thereof upon the defendant on or before 17.09.2014.

3 Stand over to 26.09.2014 to decide on the admissibility of documents/marking of documents on which date the plaintiff to keep their first witness present in Court.

(K.R. SHRIRAM, J.)