

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 6556 OF 1999

Bharat Builders Pvt. Ltd. & Ors.  
Appellant (s)

VERSUS

Parijat Flat Owners Coop. Housing Society & Ors.  
Respondent(s)

With  
C.A. No. 6557/1999  
(With office report)

Date: 05/05/2005 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s) Mr. E.R. Kumar, Adv.  
Mr. Sanad Ramakrishnan, Adv. for  
Mr. P.H. Parekh, Adv.

For Respondent(s) Mr. Rakesh Sharma, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeals stand disposed of in terms of the signed order with no  
order as to costs.

(J.S. Rawat)  
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Court Master  
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(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6556 OF 1999

Bharat Builders Pvt. Ltd. & Ors.

Appellant (s)

Versus

Parijat Flat Owners Coop. Housing  
Society & Ors.

Respondent (s)

With

Civil Appeal No. 6557 of 1999

O R D E R

On 27th of April, 2005, counsel for the parties informed us that the dispute between the parties has been settled by way of compromise and a formal Memo of compromise shall be filed within a week. On their request, the case was adjourned for today.

The parties have filed in Court a Compromise which has been termed by them as "Consent Terms". The same has been duly signed by the parties on both sides and authenticated by their respective counsel.

The Consent Terms are taken on record and marked as Exhibit-C1. The terms of the compromise are as under:

"(a) It is hereby declared that the provisions of Maharashtra Ownership Flats Act (Regulation and the Promotion of construction Sale Management and Transfer) Act, Maharashtra Act No.XIV of 1963 are applicable to the suit building.

(b) It is further declared that first Petitioner Company is a 'promoter' within the meaning of Section 2 (c) and was under obligation to take steps for the formation of a Co-operative Housing Society or a company of Owners of flats and garages according to law and to do all such acts and things as are necessary for the said purposes.

(c) It is declared that first Petitioner Company is therefore under statutory obligation to take all necessary steps to complete their title to the suit land and building in favour of Respondent Society.

(d) The Petitioners and their servants and agents are hereby restrained by order of injunction from doing any act or thing or causing or permitting any act or thing to be done which would in any manner affect or prejudice right, title and interest of the owners of flats and garages in the suit building as the case may be.

(e) The Respondent Society (Original Plaintiff) shall prepare draft Deed of Assignment to be executed by the Petitioner herein (Original Defendant No.1 in the Suit) in accordance with and on the basis of Deed of Assignment dated 25th January, 1957 executed between Jayantilal J. Mulji and others in favour of the Petitioner herein, for the residuary period under the Indenture of Lease dated 13th October, 1948 and subject to the terms, conditions and covenants on the part of the Petitioner under the said Deed of Assignment and now on the part of the Respondent Society contended under the said

Indenture of Lease read with Deed of Assignment as above and shall forward the same with all particulars and details to the Petitioners within one month from the date of filing of these terms in the Hon'ble Supreme Court of India.

(f) On the Petitioners receiving the draft document within the time as mentioned above, they shall approve the same and return back such draft duly approved within 15 days from the date of receipt of such draft from the Respondent Society and also hand over the (1) Original lease deed dated 13.10.1948 executed between the Governor of Bombay as the Lessor and Gordhandas Sonawala & Ors. (2) the Original Agreement dated 26.10.1950 executed between Jayantilal Mulji & Anr,. and Bharat Builders Pvt. Ltd. (3) The Original Deed of Assignment dated 25.1.1957 executed between Jayantilal Mulji & Ors. and Bharat Builders Pvt. Ltd. (4) Original Occupation Certificate (5) Original Approved Plans and such other documents of title pertaining to the said land and building.

(g) Upon receipt of such approved draft, the Respondent Society shall get such document duly adjudicated for stamp duty and shall pay the necessary stamp duty and forward a photocopy thereof to the Petitioners. Upon the Respondent Society giving intimation of having stamped the document, the Petitioners shall sign and execute such document in favour of the Respondent Society. It is hereby clarified that no time frame is specified for Adjudication, as the same depends on the process of Govt. Department, and the Petitioners shall cooperate for the said Adjudication by supplying necessary and requisite documents.

(h) The Respondent Society shall bear, pay and discharge all the outgoings, taxes, stamp duty, registration charges and all other amounts payable for effectual assignment of all right, title and interest of the

Petitioners under the said Deed of Assignment in favour of the Respondent Society. The Petitioners shall not be held liable or responsible for the same.

(i) The Respondent Society hereby undertakes to this Hon'ble Court to pay to the Petitioners a sum of Rs.5,59,410 (Rupees Five Lakh Fifty Nine Thousand Four Hundred Ten only) towards the costs of the suit land as per the original agreements and further a sum of Rs.10,40,590/- towards claim of the Petitioner for ground rent, service charges and reimbursement towards payment of tax, water charges so paid by them in respect of the suit land and the building, simultaneously on the Petitioners executing documents as referred to hereinabove.

(j) If for any reason the Respondent Society causes any delay in compliance of their above obligations and does not get documents executed in their favour within the time as aforesaid, the Respondent Society shall pay to the Petitioners the amount as per clause(i) above on or before 30.6.2005. Such payment shall be made by Pay Order/Demand Draft. Upon receipt of the amount, the Petitioners shall irrevocably authorize the office bearers or nominees of the Respondent Society to sign and execute document as aforesaid for and on behalf of the Petitioners and the Petitioners shall execute necessary Power of Attorney.

(k) The Prothonotary and Senor Master, High Court, O.S. Bombay to refund to Respondent Society the amount of Rs.1,00,000/- (Rupees One Lakh) together interest, if any, accrued and deposited in First Appeal No. 869 of 1992 on 3rd May, 1994.

(l) After Deed of Assignment is executed and transfer is effected of the leasehold rights in the suit land and building in favour of the Respondent society, it will get every flat owner who are not participating in this suit

but who is occupying a flat or garage in the suit building to join as member and thereafter said Society shall look after management of the suit building on being paid service charges by each of the members of the Society.

(m) Upon the petitioners and the Respondent Society complying with their aforesaid respective obligations, the Decree be marked fully satisfied by or against both the parties hereto.

(n) Each party shall bear, pay and discharge fees of their respective advocates and other personnel;

(o) No order as to costs."

Counsel for the parties pray that the decrees passed by the High

Court be modified in terms of the compromise arrived at between the

parties. Accordingly, the impugned orders are modified in terms of the compromise arrived at between the parties, reproduced above.

The Civil Appeals stand disposed of in terms of the settlement arrived at between the parties. There shall be no order as to costs.

.J.

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(ASHOK BHAN)

New Delhi;  
.J.  
May 05, 2005.

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(A.K. MATHUR)