

IN THE COURT OF THE HON'BLE III SENIOR CIVIL JUDGE, CITY CIVIL COURT

AT SECUNDERABAD.

O.S.No.591 of 2008

Between

Sumith Builders represented by its
Partner Sri Soham Modi

... Plaintiff

AND

Ashish Arora

... Defendant.

WRITTEN STATEMENT FILED BY DEFENDANT

1. It is submitted with regard to the Para No.I & II of the suit being descriptive needs no specific reply. Further the averments in the plaint, which are not specifically admitted, are deemed to be denied.
2. It is further submitted that with regard to Para No.III (1) of the plaint, it is not disputed that the plaintiff is a registered firm and the plaintiff has not submitted any proof to show that Sri Soham Modi is the partner, as such he is entitled to represent the plaintiff firm. The plaintiff is put to strict proof of the same.
3. It is further submitted that with regard to paragraph No.III (2) of the plaint, it is not disputed that the defendant entered into Agreement of sale dated 19.06.2006 and agreed to purchase Flat No.507, fifth floor of Silver Oak Apartments of the plaintiff and further the total sale consideration amount is Rs.7,10,000/- (Rupees Seven Lakhs and Ten thousand only). Further it is denied that in addition to the total sale consideration amount, the defendant has to pay other expenses such as VAT, service tax and stamp duty, which comes to a total of Rs.83,784/-. Thus the total sale consideration became Rs.7,93,784/- and it is denied that the defendant paid Rs.7,05,000/- and promised to pay the balance of Rs.88,784/- in due course. It is also denied that the plaintiff with the bonafide belief executed a sale deed on 23.09.2006 and registered the same before SRO Uppal, Ranga Reddy District.

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4. It is submitted that with regard to paragraph No.III (3) of the plaint, it is denied in toto and the plaintiff is put to strict proof of the same.
5. It is submitted that with regard to paragraph No.III (4) of the plaint, it is denied that the plaintiff got issued a legal notice to the defendant on 28.09.2007 and that the plaintiff is constrained to file the present suit. The plaintiff is put to strict proof of the same.
6. With regard to paragraph No.III (5 & 6) of the plaintiff is denied in toto and the plaintiff is put to strict proof of the same.
7. With regard to para No.IV relating to cause of action, it is submitted that no cause of action arose at any time, as mentioned in the plaintiff.
8. It is denied that the plaintiff is not entitled to any relief as prayed for in the plaint.
9. The defendant herein further submits that the total sale consideration amount is Rs.7,10,000/- (Rupees Seven Lakhs and Ten Thousand only). It is denied that the expenses as such VAT, service tax and stamp duty for registration is coming up to Rs.83,784/- and which comprises the total sale consideration as Rs.7,93,784/-. It is submitted that on the date of registration, the defendant had paid the total sale consideration amount as agreed and got registered the schedule premises in his favour. It is very clear from the above that all the dues whatever were paid before the registration itself. Further, it is not even clearly mentioned, how the plaintiff derived the alleged figure of Rs.83,784/- under the different heads and it is not even mentioned, what is the amount exactly for the different heads. Further it is the general practice that the vendee pays the registration fee, to the concerned office at the time of registration and the vendor is no way concerned with the same. In the present suit, the plaintiff is claiming registration charges, it is denied that the defendant have to pay the alleged amount of Rs.83,784/- to the plaintiff and the plaintiff be put to strict proof of the same.

10. The defendant herein further submit that the defendant had issued a cheque for an amount of Rs.55,000/- (Rupees Fifty Five Thousand only) apart from which, the defendant also issued two more cheques for an amount of Rs.35,000/- and Rs.2,15,000/- respectively. All the above mentioned cheques were taken from the defendant, by the plaintiff, for the purpose of collateral security at the time of entering into agreement of sale dated 26.06.2006, without writing any date of the aforesaid three cheques.
11. The defendant herein further submits that on 15.05.2006, the defendant have booked the petition schedule property for a total sale consideration amount of Rs.7,10,000/- and at the time of booking the flat, as a token of advance, the defendant herein had paid an amount of Rs.10,000/-, for which the plaintiff gave a separate receipt and subsequently, the defendant had obtained bank loan and paid the balance sale consideration amount through various cheques, which were honoured and encashed by the plaintiff and the registration was done by the plaintiff only after the entire consideration was received. At the time of entering into the agreement of sale, the plaintiff gave certain specifications, which they are going to provide. After receiving entire sale consideration amount, the plaintiff started neglecting the construction work of suit schedule property and there are several deviations from the original specifications given by the plaintiff.
12. It is further submitted that the defendant approached the plaintiff and questioned them for not completing the construction within the time stipulated and also with regard to specifications; the plaintiff started giving vague and evasive answers. When the defendant pressurized the plaintiff to complete the construction within time, the plaintiff started demanding more money and made use of defendant's cheques which were given for collateral purpose and presented a cheque of Rs.55,000/- without the consent and knowledge of the defendant and started threatening the defendant, that the plaintiff will take legal action against the defendant. Even as on today, the suit schedule premises is not

completed as per the specifications and the custody and possession of the property is with the plaintiff only. The possession of the suit schedule property is not even handed over to the defendant as on today, but the defendant is forced to pay the loan installments regularly. Further to overcome with the completion of construction of the suit schedule property, the plaintiff came with the present suit with all baseless allegations and with a sole intention to harass the defendant and evading with the balance construction work.

It is therefore prayed, that this Hon'ble Court may be pleased to dismiss the present suit with exemplary costs and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.

Place : Secunderabad.

Date : 20.04.2009

DEFENDANT

COUNSEL FOR DEFENDANT

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Plaintiff

AND

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WRITTEN STATEMENT
FILED BY THE DEFENDANT

OK
[Signature]

22/06/2009

Filed on : 20.04.2009

Filed by :

Counsel for Defendant

B. Yogendra Prasad,
Advocate.