

IN THE COURT OF DISTRICT JUDGE, GURGAON

IN THE MATTER OF:

Smt. Jasmeet Singh

Versus

Asha Hoon & Ors.

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Filed by:

(SHALINI GANDHARAVA & LALIT M.  
GANDHARAVA)

Advocates

Counsels for the Plaintiff

IN THE COURT OF THE DISTRICT JUDGE, GURGAON

IN THE MATTER OF:

Jasmeet Singh

S/o Late K.P. Singh

R/o 39B, Akashneem Marg,

DLF Phase-II,

Gurgaon.



...Plaintiff

Versus

1. Asha Hoon, D/o Late Kashmira Singh.
2. Surinder Singh Ahluwalia.
3. Raju Singh Ahluwalia

All Residents of :

C/o Baljit Singh Ahluwalia

B-4/1701, Unitech World Spa,

Sector-31, Gurgaon.



Also at:

8-C, Hankow Road, Ground Floor,

T.S.T. Kowloon, Hong Kong.

4. Parasvnath Developers Limited,  
6<sup>th</sup> Floor, Arunachal Building,  
Barakhamba Road, N.Delhi-110001.

...Defendants

**SUIT FOR PERMANENT INJUNCTION.**

**MOST RESPECTFULLY SHOWETH:**

1. That the defendant No.1 approached the plaintiff for the sale of Flat bearing No. B-2/12AO3, measuring 3390 Sq. Ft., situated at Parsvnath Exotica, Sector 53, Gurgaon. ✓
2. That the said property was allotted to the defendant No. 1 jointly with Usha Singh, by the defendant No. 4, on 10.01.2006, vide a Flat Buyer Agreement. That Usha Singh Passed away and her share in the property devolved upon defendants Nos. 2 and 3, who are the legal heirs of Usha Singh and they were also substituted/endorsed as the legal heirs of the deceased Usha Singh, in the records of Defendant No. 4 on 02.05.2008. ✓
3. That the total sale consideration of the flat in question was fixed at Rs.2,76,28,500/- , at the rate of Rs.8150/- per Sq. Ft. and the plaintiff also paid a sum of Rs. 10,00,000/-, to the defendant No. 1, as Advance/Earnest Money, which the defendant No. 1 received on behalf of herself and also on behalf of Defendants No. 2 and 3, the other co owners of the Flat in question. At the time of receiving the sum of Rs. 10,00,000/- ( Rs. Ten Lacs Only ), the defendant No. 1 assured the plaintiff that the defendant No. 1 would furnish



the Authority Letter/GPA from the other co owners, i.e. the Defendants No. 2 and 3, authorizing the defendant No. 1 to enter into an agreement to sell the flat and also to receive the balance sale consideration on their behalf. The Defendant No. 1 further assured the plaintiff that the defendant No.1 would get the Conveyance Deed of the flat, from Defendant No. 4, registered in her own name in order to be able to execute the sale deed of the same in favour of the plaintiff.

4. That subsequent to receiving the earnest money, the defendant No. 1 failed to supply any of the documents mentioned hereinabove and started to pressurize the plaintiff for the balance sale consideration of Rs.2,66,28,500/-, without furnishing any Authority from the defendants Nos. 2 and 3, to receive the same. It is pertinent to mention here that even the Advance/Earnest Money Receipt does not bear the signatures of the defendants Nos. 2 and 3 and the earnest money was paid by the plaintiff in good faith and belief that in the due course the defendant No. 1 would arrange for a meeting of the plaintiff with the defendants Nos. 2 and 3 or get a Registered General Power of Attorney from the defendants Nos. 2 and 3, authorizing the defendant No. 1 to enter into a deal, to negotiate, to receive money for and on

their behalf and ratifying all deeds and acts of defendant No. 1 done on their behalf.

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5. That when the plaintiff requested the defendant No. 1 to execute an agreement to sell as per law, the defendant No. 1 blatantly refused to do so and started pressurizing the plaintiff to conclude the deal by 02.04.2011, as per the Advance/Earnest Money receipt.

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6. That the defendant No. 1 was a mere allottee along with Usha Singh, now deceased, of the flat, allotted by the Defendant No. 4 and the Defendants No. 1, 2 and 3 were the joint owners of the same and as such an authority letter and an NOC in favour of the defendant No. 1 was necessarily required to be executed by the defendants Nos. 2 and 3, in order to enable the defendant No. 1 to conclude the deal.

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7. That even a bare perusal of the Flat Buyer Agreement dated 10.01.2006, the clause 13 of which states "The Buyer shall not be entitled to transfer his rights in the flat under this agreement to any third party or get his name substituted by another person, without the consent of the Developers.", shows that the defendant No. 1 could not have transferred her rights along with those of the defendants Nos. 2 and 3 as the defendant No. 1 had not taken the formal consent of the defendant No. 4 to do so.

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8. That even as per clause 11(a) of the Flat Buyer Agreement which states, "The Conveyance Deed of the flat as well as the proportionate share of the land underneath as permissible as per applicable laws shall be executed in favour of the Buyer by the Developers. All cost of stamp duty, registration fee and other miscellaneous/incidental expenses for execution and registration of the Conveyance Deed of the flat shall be borne and paid by the Buyer". The defendant No. 1 is not in a position to execute the sale deed of the flat in favour of the plaintiff, as the Conveyance Deed from the defendant No. 4, in favour of the defendants No. 1, 2 and 3 has still not been gotten executed and the defendants No. 1, 2 and 3 are not in a position to pass on valid title of the flat to the plaintiff as the defendants Nos. 1, 2 and 3 have got no Registered Title/Conveyance Deed; of the flat, in their name.
9. That the plaintiff had got the entire payment of the balance sale consideration of Rs. 2,66,28,500/-, ready in the form of three Bank Drafts of J&K Bank, Branch A-6 & 7, Arjun Marg, Shopping Mall, DLF Phase-I, Gurgaon-122002, all dated 28.03.2011, i.e. Bank Draft No.012898, for Rs. 1,35,14,250/-, in favour of Asha Hoon; Bank Draft No. 012895, for Rs. 67,57,125/-, in favour of Defendant No. 2 and Bank Draft No.012899, for Rs.67,57,125/-, in favour of Raju Ahluwalia,

but the plaintiff could not have paid such a huge amount of money without the execution of a proper sale deed and the defendant No. 1, 2 and 3 cannot execute a sale deed in favour of the plaintiff as the flat has not been Conveyed by way of a Conveyance Deed in favour of the defendants No. 1, 2 and 3 by the defendant No. 4, as per the clause 11(a) of the Flat Buyer Agreement.

- 10/ That the defendant No. 1, thereafter, wrote a letter dated 04.03 2011, to the plaintiff, to keep the sale consideration ready for her to execute the sale deed and the plaintiff telephonically informed the defendant No. 1, that the same was ready and the defendants Nos. 1,2 and 3 should send the photocopies of the sale deed executed by the defendant No. 4 in their favour along with the registered Power of Attorney by the defendants Nos. 2 and 3 in favour of the defendant No.1 to execute the sale of the flat in favour of the plaintiff.
11. That the neither did the defendants Nos. 1, 2 and 3 provide the plaintiff with the copies of the afore mentioned documents and nor did they approach the plaintiff, but on the contrary, they sent a Legal Notice dated 16.03.2011, asking the plaintiff to make arrangements for making the payment of the balance sale consideration or else the Earnest Money paid by the plaintiff to the defendant No. 1 would stand forfeited. The



balance sale consideration was ready in the form of bank drafts and the defendants Nos. 1, 2 and 3 had complete knowledge of the same but due to mala fide intents and with a view to usurp the Earnest Money the defendants Nos. 1, 2 and 3 did not execute the sale deed. The defendants Nos. 1, 2 and 3 cannot be allowed to take advantage of their own wrong and misappropriate and usurp the money of the plaintiff which was paid by the plaintiff in good faith and as a bona fide purchaser of the Flat, to the defendant No. 1 who received the same from the plaintiff on behalf of herself as well as on behalf of the defendants Nos. 2 and 3. \*

12. That the plaintiff in all earnest waited for the defendants Nos. 1, 2 and 3, to execute the sale deed, of the flat, in his favour, on 28.03.2011, along with the balance sale consideration to be paid by the plaintiff, in the form of three bank drafts, but the defendants Nos 1, 2 and failed to turn up to execute the same in favour of the plaintiff.
13. That the plaintiff duly replied to the Legal Notice of the defendants, on 11.04.2011 by registered post to the counsel of the defendant No. 1 and also to the defendant No, 1 herself.
14. That the plaintiff also got issued a Public Notice in the daily Hindustan Times and also filed a complaint against the defendant No. 1 to the SHO PS DLF Phase-II, Gurgaon. That



the plaintiff has learnt that the defendant No.1 is selling the Flat in question but the plaintiff has an interest in the same having paid the Earnest Money to the defendant No.1 as also being a bona fide purchaser to fulfill his part of the contract provided the defendants Nos. 1, 2 and 3 provide him with good marketable title of the Flat as per law.

15. That there is every likelihood that the defendants Nos. 1,2 and 3 will sell the Flat and create a third party interest in an illegal manner and if they succeed in their ill-design, the plaintiff will suffer irreparable loss and injury. The local police was not extending any help to the plaintiff and no action is being taken against the defendants Nos. 1, 2 and 3 hence the present suit to protect the rights of the plaintiff.
16. That the cause of action in favour of plaintiff and against the defendants Nos. 1, 2 and 3 first arose in the month of December 2010 when the plaintiff paid the Advance/Earnest Money of Rs. 10,00,000/- to the defendant No.1 vide Earnest Money Receipt, it again arose on 04.03 2011 when the defendant No.1 wrote a letter to the plaintiff, to keep the balance sale consideration ready, it arose again on 16.03.2011 when the plaintiff received a Legal Notice, it arose again on 28.03.2011 when the plaintiff informed the defendant No.1 that the balance sale consideration was ready

but in spite of fulfilling his part of the contract the defendants Nos. 1, 2 and 3 have entered into a contract of sale of the said Flat with a third party with a view to defeating the claim of the plaintiff and has taken the earnest money from an intending purchaser, and the cause of action is still continuing.

17. That the said flat is situated within the territorial jurisdiction of this Hon'ble Court and the defendants to the suit reside and work for gain in Gurgaon and the cause of action arose in Gurgaon hence this Hon'ble Court has jurisdiction to entertain this suit.
18. That the value of the suit for the purpose of court fee and jurisdiction is Rs.130/- and the requisite court fee has been affixed on the plaint.
19. That the plaintiff has no other efficacious remedy to protect her rights except to file the present suit.

**PRAYER:**

It is therefore, prayed that this Hon'ble Court may kindly be pleased to;

- a. pass a decree of permanent injunction in favour of the plaintiff and against the defendants thereby restraining the
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defendant no.1, 2, 3 and 4 and their agents, associates from selling, alienating and transferring the said Flat in favour of any third party, in the interest of justice;

- b. Costs of the suit may also be awarded in favour of the plaintiff and against the defendants;
- c. Any other order/relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the plaintiff and against the defendant.

  
Plaintiff

(Jasmeet Singh)

Through:

**(SHALINI GANDHARAVA & LALIT M.  
GANDHARAVA)**

Advocates

Counsels for the Plaintiff

**VEFICATION:**

Verified at Gurgaon on this 18th of April 2011 that the contents of paras no. 1 to 15 of the plaint are true to my personal knowledge and those of paras no.16 to 19 of the plaint are true on information received and believed to be true. The last para is prayer to this Hon'ble Court.

  
Plaintiff