



CIVIL

“The statutory obligations and contractual agreements in matters of property conveyance reasserted by the Hon’ble High Court, Bombay ” – Prestige Garden CHSL v. State of Maharashtra & Ors

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Introduction:

The case of *Prestige Garden CHSL v. State of Maharashtra & Ors.* revolves around the interpretation and application of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA). It pertains to the obligation of Promoters to convey their right, title, and interest in land and buildings to cooperative housing societies, as outlined in Section 11 of MOFA. The case examines the Competent Authority's role in enforcing this obligation, the rights of cooperative societies, and the adherence to statutory provisions.

Facts of the case:

The case pertains to the interpretation and enforcement of the Maharashtra Ownership Flats Act, 1963 (MOFA). Prestige Garden CHSL, a cooperative housing society, filed an application under Section 11(3) of MOFA seeking a certificate of deemed conveyance from the Competent Authority. The Promoter, as per MOFA's statutory scheme, is obligated to convey their right, title, and interest in land and buildings to the cooperative housing society within a specified period, typically four months from the registration of the society. In this case, the Promoter failed to fulfill this obligation within the stipulated timeframe, prompting Prestige Garden CHSL to seek recourse through the Competent Authority. The Respondents, representing the State of Maharashtra and others, contended that conveyance should occur only after the complete development of the layout, as per agreements between the parties. Despite this, the Competent Authority issued a certificate of deemed conveyance for only the constructed structure, excluding the land. Prestige Garden CHSL challenged this decision, leading to a thorough examination by the High Court of MOFA's provisions and relevant rules.

Contentions by both sides:

In the case of *Prestige Garden CHSL v. State of Maharashtra & Ors.*, the contentions by both sides revolved around the interpretation of statutory provisions and contractual agreements regarding the conveyance of land and buildings. The cooperative housing society, Prestige Garden CHSL, contended that the Promoter, as per the Maharashtra Ownership Flats Act, 1963 (MOFA), was obligated to execute unilateral deemed conveyance within a specified timeframe. They argued that the Promoter failed to fulfill this obligation by not conveying their right, title, and interest in the land and buildings within the stipulated period. This contention was supported by the provisions of MOFA, which mandate the Promoter to convey their interest in the property to the flat purchasers' association within a specified timeframe unless otherwise agreed upon. Additionally, the Petitioner relied on Clause 13 of the Model Agreement, which included a covenant for conveyance.

On the other hand, the Respondents, representing the State of Maharashtra and others, opposed the unilateral conveyance sought by Prestige Garden CHSL. They argued that conveyance should only occur upon the complete development of the layout, as agreed upon in the contractual arrangements between the parties. This contention was supported by the contractual agreements, specifically Clauses 41 and 44, which stipulated that the conveyance of land and buildings should occur after the entire property is fully developed. The Respondents highlighted the agreements between the parties to emphasize that the conveyance of land and buildings was contingent upon the completion of the entire layout, including all constructions.

Furthermore, the Respondents did not challenge the issuance of a certificate of deemed conveyance for the constructed structure, indicating their acceptance of the Petitioner's entitlement to conveyance. However, they contested the conveyance of the land, arguing that it should be deferred until the completion of the entire layout. The Respondents' contention was further supported by the Competent Authority's order, which conveyed only the constructed structure to Prestige Garden CHSL, based on the finding of non-compliance with Rule 9 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Rules, 1964.

The Observation of the Hight Court:

In analyzing the contentions of both sides, the Court referred to various statutory provisions, including Section 11 of MOFA and Rule 9 of the Rules of 1964, to determine the obligations of the Promoter and the Competent Authority regarding conveyance. Additionally, the Court considered relevant case laws such as *Union of India vs N. Murugesan* and *Rajasthan State Industrial Development and Investment Corporation v. Diamond & Gem Development Corporation* to address issues related to delay, estoppel, and approbation and reprobation in the context of the present case.

The High Court analyzed the provisions of the Maharashtra Ownership Flats Act, 1963 (MOFA), particularly Section 11, which imposes obligations on the Promoter to convey their right, title, and interest in the land and buildings to the flat purchasers' association within a specified timeframe, unless otherwise agreed upon. The Court emphasized that the Competent Authority, upon finding non-compliance by the Promoter, is obligated to issue a certificate of deemed conveyance conveying the right, title, and interest of the Promoter in the land and building.

The High Court scrutinized the Competent Authority's order, which conveyed only the constructed structure to Prestige Garden CHSL, based on the finding of non-compliance with Rule 9 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Rules, 1964. The Court noted that the Competent Authority's decision to convey only the constructed structure deviated from the statutory mandate of conveying both land and buildings as deemed conveyance under MOFA.

Moreover, the High Court addressed the issue of delay and estoppel raised by the Respondents, citing relevant case laws to emphasize that delay cannot be a decisive factor in cases where substantial rights are affected, especially when dealing with cooperative housing societies acting on legal advice. The Court also rejected the Respondents' argument of approbation and reprobation, emphasizing that equitable considerations must be balanced with the substantive rights conferred by statute. The High Court quashed the Competent Authority's order, along with the subsequent unilateral deeds of conveyance and rectification, and remanded the matter to the Competent Authority to decide afresh in accordance with the statutory provisions of MOFA.

Conclusion:

The case of Prestige Garden CHSL v. State of Maharashtra & Ors. shows the need for upholding statutory obligations and contractual agreements in matters of property conveyance, particularly within the framework of the Maharashtra Ownership Flats Act, 1963 (MOFA). The High Court's careful analysis and rulings reaffirm the principle that the Promoter's obligation to convey both land and buildings to the flat purchasers' association is critical, as enshrined in Section 11 of MOFA. By quashing the Competent Authority's order and subsequent unilateral deeds of conveyance and rectification, the Court reiterates the necessity for strict adherence to statutory mandates in ensuring cooperative housing societies receive their rightful entitlements. Furthermore, the rejection of arguments related to delay and estoppel highlights the Court's commitment to upholding substantive rights over procedural considerations, particularly in cases where significant rights are at stake. The High Court's decision is a precedent emphasizing the importance of legal clarity and adherence to statutory provisions in property conveyance matters, thereby promoting fairness and equity in real estate transactions.