

**BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD**

C.C. NO. 53 OF 2018

Between:

T.M. Madhusudhan
S/o. T.Munnaiah,
Hindu, Male, Aged ... years,
R/o. H.No.11-6-763, Red Hills,
Nampally, Hyderabad – 500 004.
Complainant

Vs.

1. M/s. Villa Orchids, Rep. by its
Managing Partner Anand Mehta,
Office at 5-4-187/3 & 4,
Soham Mansion, M.G.Road,
Secunderabad
2. M/s. Venkataramana Constructions Rep. by its
Managing Partner A. Rama Reddy,
Office at 2-3-35, Sri Sai Residency,
Amberpet, Hyderabad

.....Opposite parties

COMPLAINT FILED UNDER SECTION- 17(1)(a) OF C.P. ACT

The address for service of summons, notices, etc. on the above complainant and opposite parties are as shown in the above cause.

Brief Facts of the Complaint:

1. The complainant is an employee working in private sector and he intended to own a house at Hyderabad as he was not having any own house is that the Opposite party (OP) is the owners of the land in Sy. No. 1 to 7 of Kowkur village, Bollaram Mandal, Secunderabad. It is further

submitted that the OP was developed the above land into houses / villas in the above Sy. No.1 to 7 for profit motive and constructed the houses and the same was sold to the needy public. In the process of development and sales, the 1st OP issued several advertisements for sale of their plots, individual house and construction of villas, and for promotion of sales business the said OP gave wide publicity with regard to their quality of construction. It is submitted that the 2nd OP who is builder and was having real estate business for more than 50 years and also constructing the individual houses and villa/flats in and around Hyderabad and Secunderabad areas for profit motive. It is submitted that, the 1st OP for the reasons best know to them that they have entered into a construction agreement with the 2nd OP for development of the undeveloped plots in Sy.no. 1 to 7 of Kowkur village with reasonable rates with an intention to sell the same to the public and get more consideration and profit. The 1st OP approached the 2nd OP and offered to give their plots for development which was accepted by the 2nd OP and thus OP1 & 2 entered into a development agreement and a copy of the development agreement is filed as document. As per this development agreement, the 2nd OP has to construct and arrange purchasers for the flats with a reasonable rates and also to arrange sale of the flats, villas to third parties for consideration and out of the said consideration the 2nd OP has to pay towards consideration of plot area provided for the 1st OP for construction of houses. Further as per the agreement, the 2nd OP have a right to sell the plots agreed for development under the above agreement and the 1st OP has no right to interfere with the construction

or sale of the flats by the 2nd OP except they are entitled to receive an amount as per the development agreement between them.

2. It is submitted that the 2nd OP after the development agreement with the 1st OP has taken possession of the flats and it is developing the same as per the agreement by selling the said flats to 3rd parties and also paying consideration to the 1st OP as per the agreement. In the process of the development with the 2nd OP, the 1st OP made an advertisement of their flats to be constructed at Sy. No.1 to 7 of Kowkur village and the same was offered to the general public. It is not out of place to state that the 2nd OP is running construction business from a long time and it is having good reputation in the market. Thus, the complainant came to know the activities of the 2nd OP in the lands of the 1st OP in Sy.No.1 to 7 of Kowkur village and the complainant approached them to purchase a villa from the 2nd OP.

3. The complainant has approached the Opposite parties after coming to know that they had undertaken a venture to construct a Villa under the name and style of M/s. Villa Orchids in Sy. No.1 to 7 Kowkur, Bollaram, Secunderabad since they had given wide publicity and advertisement through their representatives and the complainant was so convinced by the reputation which was projected by the Opposite parties (OP.s) that they are reputed builders and that the investment made by the complainant will be a good investment and he can live cozily in the villas going to be constructed by them with all modern amenities and facilities. Therefore having convinced about the projections made by the OP, the

complainant booked villa No.88 of an extent of 180 sq yards with built up area of 1940 sft for a total sale consideration of Rs.65,00,000/- and initially at the time of booking the villa he had paid an amount of Rs.25,000/- on 22-01-2018 and again on 22-02-2018 Rs.2,00,000/- were paid by the complainant.

4. The complainant came to know that the OP-1 is their builder, who had undertaken construction works of the villa and OP-2 is the land owner and that they had entered into a Memorandum of Understanding for development of the project by construction of villa and thus both of the OP.s had undertaken the work for the construction of the villa in which the complainant has booked a villa No.88. The OP.s had also provided an opportunity to the complainant and like other investors he booked villa in the said project for payment of the sale consideration by instalment scheme and the payment can be made by way of instalment depending upon the construction of the villa and the OP supposed to complete the villa no.88 and the complainant can occupy the same as per the scheme provided by the OP.s but unfortunately no construction activity has been undertaken by the OP.s even though they had booked villa in their project. The complainant as well as others who had invested their money's expecting that the construction has to be completed and they will occupy the property and live in the same with all comforts. The complainant had also expressed to the OP.s that they would pay the total sale consideration for the villa is to be completed in their project so that he can occupy the same but no effort was put in by the OP.s either to take up the venture by construction of the villa as per the assurances

given to the complainant. After waiting for a considerable period as the OP.s did not come forward to complete the construction and by they conduct it was presumed that the OP.s had obtained their idea of construction of the villas even though the complainant had booked a village on the said assurance that construction would be completed and physical possession would be given to the complainant and he made all the preparations for making the payment to the OP.s by raising substantial amounts and keep it part for the purpose of payment to the OP.s and the complainant had also issued a legal notice to the OP.s on 17-4-2018 demanding the OP.s to furnish the information as regards the exact date of delivery of physical possession of the villa and also for payment of the agreed sale consideration but inspite of receiving the said notices there is no response from the OP.s by giving any answer either affirmatively about the completion of the project or obtaining the project and to construct the villa. The complainant submits that he had invested money by booking villa No.88 on the assurance given by the OP and contrary to the agreed terms and the booking application, now the OP has received the money but not rendered the service which is expected by the complainant from the OP and thus there is a deficiency of rendition of services by the OP who failed to complete the construction and give physical possession to the complainant in respect of villa No.88 which he had booked on 22-01-2018 and it was also admitted fact that the OP had advertised and propagated the building of villa in their venture and also provided applications to public, complainant booked the said villa No.88 but the OP did not facilitate the complainant by

completion of the villa and therefore the complainant presumes that the OP abandoned their project which caused loss to the complainant and thus the services are agreed to be provided by the OP are deficiency and the services which are agreed to be provided are within the scope of the CP act and the complainant is a consumer and therefore he is entitled to claim damages and compensation and also for refund of the amount from the OP.s for deficiency in services rendered by the OP.s. and thus the complainant prayed the Hon'ble Court to direct the OP to make the construction of the villa as per the application received from the complainant on 22-01-2018 and give physical possession by receiving the balance sale consideration amount from the complainant or in the alternative if the OP fails to construct the villa No.88 and refused to give constructed villa No.88, the Hon'ble Court may direct the OP.s to refund the amount received from the complainant along with the interest as liquidated damages to Rs.10,00,000/- (Rupees ten lakhs only) and costs to the complainant.

5. It is submitted that the OP-1 & 2 are doing the business for profit motive and they have also made advertisement for sale of their flats/ villas which attracted the complainant and he booked flat no.88 by paying advance amount of Rs.25,000/- and later they paid consideration of Rs.2,00,000/-, thus complainant is a consumer for the service availed from OP.s for consideration, thus the consumer complaint is maintainable.
6. It is submitted that the OP extracted money from the complainant but they have not fulfilled their promise to complete the village as per the

agreement entered by the parties. Consequently the complainant sustained monetary loss in addition to pain and suffering.

7. It is submitted that due to non-providing of villa /house by the OP, the complainant has suffered mental agony and pain and suffering addition to monetary loss, thus complainant is estimated compensation of Rs.5,00,000/- towards mental agony and suffering and pain and the OP.s are liable to pay the same.

8.Jurisdiction:

It is submitted that the OP.s are having their offices at Secunderabad and the property is where the complainant was suffered for the villa is situated at Secunderabad, thus this Hon'ble commission have jurisdiction to entertain the suit. Further the claim of the complaint is more than Rs.20,00,000/- and below Rs.1,00,00,000/- as such the complaint is within the pecuniary and territorial jurisdiction of this Hon'ble commission.

9.Cause of action:

It is submitted that the OP-1 who is owner of the land and he entered a development agreement with the 2nd OP on 11.01.2018 by agreement and the 2nd OP offered the construction of sale of villa/ flats to the third parties by making advertisements, on seeing the advertisement the complainant approached and booked the flat by paying advance consideration and subsequent amount of Rs.2,00,000/- on different dates, thus, cause of action arose from 2016 onwards and the same is a

continuous one till today as the flat is not fully developed. Further the complaint is within Limitation period.

10.Court fee:

It is submitted that basing on claim of the complainant, the claim is more than Rs.20,00,000/- and below Rs.1,00,00,000/- and basing on it the complainant obtained DD for Rs. and paid fixed court fee of Rs.4,000/- in favour of the Telangana State Consumer Disputes Redressal Forum. Hence this complaint.

11.Prayer:

It is therefore prayed that this Hon'ble commission may be pleased to allow complaint by directing opposite parties No.1 & 2;

- a) To complete the construction of house as promised in the agreement and provide amenities, consequently allow the same said flat by completing in all respects. Alternatively direct the Opposite parties to pay an amount of Rs.5,00,000/- towards compensation for mental agony and suffering
- b) To award costs of Rs.50,000/-
- c) To pass such other order or orders as this Hon'ble commission deem just and proper.

Verification

I, T.M. Madhusudhan, S/o. T.Munnaiah, Hindu, Male, Aged ... years, R/o. H.No.11-6-763, Red Hills, Nampally, Hyderabad, I have gone through the complaint contents mentioned in paragraphs 1 to 10 above are true and correct to the best of my knowledge, information and hence verified.

Complainant.

Counsel for complainant

Dated -6-2018

LIST OF DOCUMENTS

Sl. No.	Date	Description of Document	Page Nos.
1	27.04.2017	Memorandum of Understanding between Opposite parties herein	1-18
2	22.01.2018	Booking Form of the O.P.No1.	19
3	22.01.2018 & 21.02.2018	Receipts issued by the O.P.No1 while receiving the amounts of Rs.25,000/- and Rs.2,00,000/- respectively	20
4	17.04.2018	Legal notice on behalf of the complainant to O.P.s	22-24
5		Fresh incorporation certificate change of name of the 2 nd opposite party	25

I, T.M. Madhusudhan, S/o. T.Munnaiah, Hindu, Male, Aged ... years, R/o. H.No.11-6-763, Red Hills, Nampally, Hyderabad, I have gone through the above documents 1 to 5 are true copies of the originals, hence verified.

Counsel for Complainant.

Complainant.

1. I am the complainant herein and as such I am acquainted with the facts of the case.
2. I submit that I am filing the above complaint against the opposite parties for deficiency in housing service i.e. non-completion of the promised for the villa No.88 in their project by taking the balance consideration as agreed in contracts entered by them and claimed completion and delivery of the said villa and compensation along with costs. I submit that I have gone through the contents mentioned in the complaint in paragraphs 1 to 11 are true and correct to the best of my knowledge. Hence this verified

affidavit. I submit that I have gone through the documents 1 to 10 filed in support of the complaint are true copies of the originals, hence verified.

Sworn and signed on this
...th day of July, 2018,
His name in my presence.
Before me,

Deponent

Advocate, at Hyderabad

**BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD**

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Between:

T.M. Madhusudhan
S/o. T.Munnaiah,
Hindu, Male, Aged ... years,
R/o. H.No.11-6-763, Red Hills,
Nampally, Hyderabad - 500 004.

Petitioner
(Complainant)

Vs.

1. M/s. Villa Orchids, Rep. by its
Managing Partner Anand Mehta,
Office at 5-4-187/3 & 4,
Soham Mansion, M.G.Road,
Secunderabad
2. M/s. Venkataramana Constructions Rep. by its
Managing Partner A. Rama Reddy,
Office at 2-3-35, Sri Sai Residency,
Amberpet, Hyderabad

.....Respondents(Opposite parties)

AFFIDAVIT FILED BY THE COMPLAINANT

I, T.M. Madhusudhan, S/o. T.Munnaiah, Hindu, Male, Aged ... years, R/o. H.No.11-6-763, Red Hills, Nampally, Hyderabad,do hereby solemnly and sincerely affirm and state as follows:

3. I am the complainant herein and as such I am acquainted with the facts of the case.

1.I am the complainant herein and as such I am acquainted with the facts of the case.

2.I submit that I am filing the above complaint against the opposite parties for deficiency in housing service i.e. non-completion of the promised villa No.88 in their project by taking the balance consideration as agreed in contracts entered by them and claimed completion and delivery of the said villa and compensation along with costs.

3. I submit that I learnt that the respondents/ opposite parties with unlawful intention and to avoid the complete the construction and deliver the villa No. 89 which they have promised and taken the advance amounts from me, they are trying to create the third parties interest on the said villa, if the same is allowed, pending disposal of this compliant, then it will be difficult for me to get the said property i.e. villa 88. Hence it is just and necessary to restrain the respondents opposite parties to create the third parties interest on the property i.e. villa No.89, situated at Villa Orchids in Sy.No. 1 to 7 of Kowkur Village, Bollaram Mandal, Secunderabad, otherwise I will be put to irreparable loss and injury.

4. It is prayed that this Hon'ble Commission may be pleased to restrain the respondents opposite parties to create the third parties interest on the property i.e. villa No.88, situated at Villa Orchids in Sy.No. 1 to 7 of Kowkur Village, Bollaram Mandal, Secunderabad in the interest of justice, pending disposal of the main compliant and pass such further or other orders as this Hon'ble Commission may deem just and proper.

Sworn and signed on this
...th day of July, 2018,
His name in my presence.
Before me,

Deponent

Advocate, at Hyderabad