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Date of Filing: 30.08.2021
Date of Order: 03.08.2021

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
RANGA REDDY

Present



SMT.CHITNENI LATHA KUMARI, PRESIDENT
SMT D.MADHAVI LATHA, LADY MEMBER
SRI V.JANARDHAN REDDY, MEMBER

MONDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND TWENTY THREE

CC 296/2021

Between:

1. Ms.Kusum Kumari, W/o Ravindra Sharma,
Aged about 42 years, Occ: Business.
Mobile No.9473192238, KKRI@SUNUSA.IN

2. Mr.Ravindra Sharma, S/o Madan Mohan Sharma,
Aged about 46 years, Occ: Business,

Both are R/o.H.No.346, Silver Oak Bungalows,
Phase No.3, Cherlapally Village, Kapra Mandal,
Medchal-Malkajgiri District.
Mobile No.9473192233, SHARMARAVINDRA27@GMAIL.COM

... Complainants

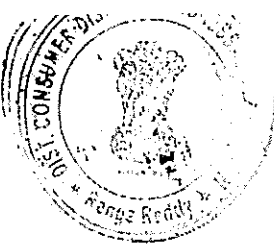
AND

M/s Silver Oak Villas LLP,
Represented by its Managing Director,
Mr.Sohan Modi, S/o Late Satish Modi,
Aged about 50 years, Occ: Business,
R/o.H.No.5-4-187/3 & 4, 2nd Floor,
Sohan Manson, M.G.Road, Secunderabad - 500 003.

... Opposite Party

Counsel for Complainants : M/s D.Satyanarayana, Advocates
Counsel for Opposite Party : M/s M.Haribabu, Advocates

*This complaint is filed U/Sec.35 of Consumer Protection Act, 2019
praying this Hon'ble Commission to direct the Opposite Party (i) to pay
Rs.10,00,000/- towards entire loss and damages caused due to delay and
poor quality of construction and negligent acts of Opposite Party (ii) to award
compensation of Rs.2,00,000/- towards pain, suffering and mental agony
(iii) to award costs of Rs.10,000/- and grant such other relief or reliefs as
this Hon'ble Commission deems fit and proper.*

ORDER

(PER SE Smt.D.MADHAVI LATHA, LADY MEMBER
ON BEHALF OF THE BENCH)

1. Brief averments of the complaint submitted are as follows:

The complainants submit that they approached the Opposite Party to purchase a construction house. The Opposite Party offered to sell their open plot (No.93) and provide construction services in Sy.Nos.11, 12, 14, 15, 16, 17, 18 & 294 situated at Cherlapally Village, Kapra Mandal, Medchal- Malkajgiri. Complainant No.1 & 2 agreed to the offer and were ready to pay Rs.28,50,000/- for the open plot and Rs.28,50,000/- for the construction separately. The Complainants paid Rs.28,50,000/- for the open plot through online-RTGS and the sale deed was executed on 25-03-2021. The complainants paid Rs.21,86,000/- and Rs.6,64,000/- for the construction through online-RTGS on 07-05-2021, totaling Rs.28,50,000/-. The Opposite Party demanded an additional amount of Rs.5,13,000/- as 18% GST on the construction value of Rs.28,50,000/-, However, the complainant paid the entire amount of Rs.62,22,594/- to the Opposite Party including all the above said charges. Hence, there were no dues in respect of the property from the complainants. Despite paying the full amount, the Opposite Party refused to hand over the property, claiming that the complainant owed an additional amount of Rs.4,30,480/- for interest on delay payment, 6 months maintenance, Member Fee, Corpus fund, Manjeera Water Connection, Extra work charges etc. The complainants did not agree to pay the additional amount. The Opposite Party did not construct the house with the proper material and the complainant lodged a complaint through the Consumer Grievance portal on 28-05-2021 but received no response. As the Opposite Party's conduct amounts to deficiency in providing proper service and caused the complainant financial loss, mental agony, and depression. They now seek Rs.10,00,000/- as compensation for financial loss and mental agony, along with Rs.2,00,000/- for damages and Rs.10,000/- as legal costs, approached this Commission. Hence this complaint.

2. The Opposite Party refutes all the allegations made in the complaint and submitted that they have a good reputation in the real estate and construction business. They have acquired property of A.6.18.GTS in Sy.No.12, 14, 15, 16, 17, 18, and 294 of Cherlapally Village, Ghatkesar



Mandal, Medchal-Malkajgiri District under different documents and obtained permission for constructing villas. However, the complainants approached them and booked Villa No.93 on 04.05.2018 agreeing to the terms and conditions mentioned in the booking form and sale agreement dated 31.07.2018. The complainants paid part of the consideration as per the schedule but failed to pay the remaining amounts as agreed, leading to delayed payments. On 25.03.2021, the Opposite Party executed a Sale Deed for the semi-finished villa and also entered into an Agreement for Construction with the complainants. The total consideration for the villa was Rs.57,00,000/-, and as per the agreement, the complainants agreed to pay interest at 1.5% per month on the delayed payments. As the complainants have not paid the installments as agreed, the Opposite Party arrived the delayed period interest is Rs.3,29,084/- up to 01-10-2021 and the complainants are liable to pay the same. The Opposite Party claims that the complainants were obligated to pay various charges, including registration, stamp duty, service tax, VAT, and GST, which were paid by the Opposite Party to the concerned department. The Opposite Party states that they are entitled to recover these charges from the complainants and withhold possession until payment. The villa was supposed to be ready by 30.05.2021, and the Opposite Party claims that they had made it ready except for the final touches. They requested the complainants to clear all dues, including taxes, but the complainants expressed inability to pay certain charges in an email dated 11.05.2021. The 2nd complainant addressed an email dated 11.05.2021 as under:-

"I am sorry to say that I am unable to pay interest amount & other extra charges. I have lost our business February 2020 due to Covid. I have no house in Hyderabad, I am on rent SOB last 10 years. My economical condition is not well now. Anyhow I have arranged bank loan, friends & family loan & your balance dues, GST Charges, Registration Charges has paid to you. but at critical situation I am unable to pay following charges: 1. documents charges, 2. Extra work charges, 3. Manjeera water connection, 4. Corpus fund, 5. Six months maintenance charges in advance, I will pay every month after position, 6. Association charges, 7. Interest charges on my villa No.93. Registration has completed on dated 25.03.2021 & Rs.57,00,000/- sale consideration total amount has been paid. It shall be highly appreciated your needful swift action on the above



matter and relieve of interest & other extra charges of villa No.93, silver oak villas & give possession." He also sent emails making said request.

In reply to the said mails, this Opposite party issued the following email dated 13.05.2021:

"This is with reference to your email, it is to bring to your kind notice that the charges mentioned (in your mail dated 11.0.5.2021) are mandatory and have been mentioned in the agreement of sale and sale deed and will be charged at the time of taking possession, accordingly, we are asking you to release the due amounts and avail post-dated possession letter", similar emails also issued by this Opposite Party.

Further submits that the Opposite Party entrusted the file in the middle of June 2021, to the counsel to issue a notice demanding the payable amounts. Accordingly, the counsel issued notice dt.13.07.2021 and later this Opposite Party received the notice in the above complaint from this Hon'ble Commission. For it, the complainants got issued a reply notice 21.07.2021 denying the liability to pay the due amounts, asked for delivery of the villa and to withdraw the notice and demand.

The Opposite Party denies the construction of the villa was improper material and any deficiency in service and maintainability that the complainants' claims are false and made with the intention to avoid lawful payments. They state that the complaint lacks cause of action, is without merits, and should be dismissed with exemplary costs.

3. The complainant No.2 filed evidence affidavit reiterating the contents of the complaint and got marked the documents as Ex.A1 to A4. The Authorized Signatory of Opposite Party filed evidence affidavit and documents were marked as Ex.B1 to B9 on their behalf. Both parties filed their respective written arguments.

4. Now the points for consideration in this case are:

(i) Whether there is any deficiency in service on the part of the Opposite Party?

(ii) Whether the complainants are entitled for the claim as prayed for? If so, to what relief?

5. Point No.1: The case of the complainants arises from a dispute between the complainants and the Opposite Party regarding the purchase of a

construction house and the payment of charges related to villa No.93 for which an Agreement of construction dated 25.03.2021 (Ex.A4 & B4) was executed. However, there is a dispute between the complainants and the Opposite Party regarding the payment of certain charges and the delay in possession of the villa.

The contention of the complainants is that they have paid the entire agreed amount for the open plot and construction to the opposite party, including the GST tax on the construction value. On the other hand, the opposite party contends that the complainants have not paid the full consideration amount as per the agreed schedule, resulting in delayed payments and the accrual of interest. The opposite party also contends that certain charges, including GST and registration fees, were to be paid by the complainants, which they have not yet paid.

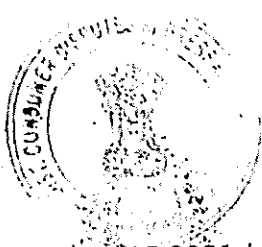
The complainants contend that the Opposite Party has not provided proper service and has caused them financial loss, mental agony, and depression. They seek compensation for these alleged damages. However, the Opposite Party denies any deficiency in service and the maintainability of the complainants' claims as false and baseless.

The Opposite Party relied on the following citations of Hon'ble Supreme Court of India:

- (i) *"Hope Plantations Ltd Vs Taluk Land Board, Peer made and another"* (1999) 5 SCC 590
- (ii) *Arnold & Others Vs National Westminster Bank Plc.* (1991) 2 AC 93)
- (iii) *Bharathi Knitting Company Vs Dhl Worldwide Express Courier on* 09th May 1996

We have perused the material placed before us and considering the evidence provided by both parties and the submissions of both parties, it is evident that there is a disagreement over the payment of certain charges and the delay in possession. The complainants' email dated 11.05.2021-Ex.B6, indicates their inability to pay certain charges due to economic difficulties caused by the COVID-19 pandemic.

With respect to the payment schedule and outstanding charges, the Opposite Party provide a detail breakup of the payments made by the complainants and verify the outstanding amounts, including the delayed payment of interest i.e. Ex.B9. While hearing, the counsel for the Opposite Party vehemently argued that the email issued by the complainants on



11.05.2021 in which complainants categorically admitted that dues and payments by themselves is not in dispute. However, due to the reason of Covid-19 pandemic, the reason for the delay payment by the complainants is sympathetically considered. In view of email dated 11.05.2021 and also reply email dt.13.05.2021 and 18.07.2021 under Ex.B5 & B6, the complainants are required to pay any other outstanding charges as per the terms of the agreement. The Opposite Party should provide proper documentation for these charges to the complainant. Once all dues are settled, the Opposite Party shall hand over the possession of Villa No.93 to the complainants without any further delay. With respect to compensation for mental agony and suffering, if the complainants have indeed suffered financial loss, mental agony, and depression due to the delay or any deficiencies in construction, this Commission does not find a piece of evidence to assess the same which the complainants failed to submit.

6. Point No.2: In the result, the complaint is disposed of with a direction to the complainants to pay the due amounts, if any, other than the interest of delay payment to be payable as per the Agreement, entered in between the both parties and once all the dues are settled, the Opposite Party shall handover the possession of Villa No.93 to the complainants without any further delay by completing all the unfinished works along with "Letter of Possession". Both the parties are directed to bear their own costs of litigation.

Dictated to the Steno-typist, transcribed by her, corrected by me and pronounced by us in the Open Commission on this the 07th day of August, 2023.

Sd/-
PRESIDENT

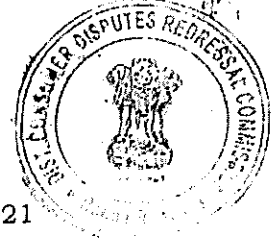
Sd/-
LADY MEMBER

Sd/-
MALE MEMBER

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Complainants
Complainant No.2 filed Affidavit

For Opposite Parties
Affidavit filed

EXHIBITS MARKEDFor Complainants

- Ex.A1 – Copy of Sale Deed vide Doc.No.6242/2021 dt.25.03.2021
 Ex.A2 – Copy of Grievance Details
 Ex.A3 – Copy of amounts break up given by Opposite Party
 Ex.A4 – Copy of Agreement for construction doct.No.6243/2021
 dt.25.03.2021

Exhibits marked for the Opposite Parties

- Ex.B1 – Copy of booking form for the Villa dt.04.05.2018
 Ex.B2 – Copy of Agreement of Sale dt.31.07.2018
 Ex.B3 – Copy of Sale Deed for land dt.25.03.2021
 Ex.B4 – Copy of Agreement for Construction dt.25.03.2021
 Ex.B5 – Copy of Calculation Statement for the villa
 Ex.B6 – Copy of Emails between the parties
 Ex.B7 – Copy of Legal Notice dt.13.07.2021 issued by Opposite Party
 Ex.B8 – Copy of Reply Notice issued by the complainants' dt.21.07.2021
 Ex.B9 – Copy of GST Tax Invoices

Date of Order... 7-8-2023
 Date of ready... 8-9-2023
 Date of Dispatch... 8-9-2023
 Date of Delivery... 11-8-2023

Sd/-
 PRESIDENT

Sd/-
 LADY MEMBER

Sd/-
 MALE MEMBER

P. Phani Kumar
 Sheristadar 6/9/23
 Dist. Consumer Disputes
 Redressal Commission, Paddy

File No. 1560 dated 8-9-2023

