

otherwise

BEFORE THE NATIONAL CONSUMER DISPUTES REDRESS
COMMISSION AT NEW DELHI

R.P. NO. 3377 OF 2016

IN THE MATTER OF :

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,
Age 58 years, Occ:House Wife.

2) Angadi Mahesh Kumar, & Another .

..Petitioners/Compl

Versus

Modi & Modi Constructions,
Rep. by its Partner Soham Modi,
H.No.5-4-187/3 & 4, 2nd Floor,
MG Road, Secunderabad-500003.

.. Respondent/Respondent/O.P.

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

Noted
Compl

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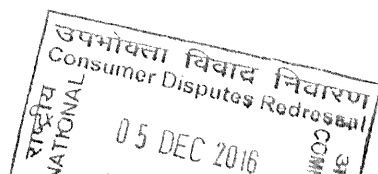
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LIST OF DATES AND EVENTS

- 2-02-2013. The OP is builder and developer with an negotiations agreed to Sale the Villa No.46 and The petitioner/ Complainant No.1&2 through Bhasker Rao paid Rs. 25,000/- as advance with an oral agreement that to be paid entire amounts within 9 months.
- 16-2-2013 : The Complainant No.1&2 paid Rs. 2,00,000/- vide Cheque No. 315822 as 1st installment
- 26-06-2013 . The petitioner/ Complainant No.2 paid Rs. 5,00,000/- vide Cheque No. 024420 as 2nd installment.
As total the Comp. No.1 & 2 paid Rs. 7,25,000/-
- 25-02-2014 : The OP represented by one Mr. Krishna Prasad on behalf of opposite party called the complaints in hurried manner he was not shown the span of time by misleading the complainants the opposite party obtained the signature of the complainants on the agreement of sale and pressurized for the bulky amounts of Rs.14,75,000/- at a time of in terms of shorter duration agreement
- 09-05-2014: Immediately, after knowing the same, the complainants through their family elder A. Bhaskar, submitted a representation on 09-05-2014 with a proposal payment schedule in terms of 9 months opted plan and the same was received by the opposite party (represented Mr.Venkat Reddy and acknowledged the same). But there is no any replied received by the complainants.
- Last week of May 2013: The complainants visited the office of the opposite party in the last week of May,2013 for their reply / answer either to execute their acceptance or to return back the amount of Rs.7,25,000/-already paid by the complainants. But there is no any response from the side of opposite party. That means it is deemed to admitted and accepted the span of 9 months time by the opposite party.
- 20-08-2013: The Complainants No.1&2 obtained Housing Loan for Rs. 22,00,000/- from LIC Housing Finance (17,00,000/- + 7,25,000/-already Paid) there is short fall of Rs. 9,75,000/- and the OP come forward to assist finance the same as instead of agreed 9 months entered in agreement of sale as 4 months.
- 20-08-2013.: Accordingly, the complainants applied in writing as formality of the opposite party in support of un-dated cheque for Rs.9.75 lakhs as desired on 20-08-2013.
- 17-Sep-13 to 13-Nov-13 The opposite party came forwarded to assist financial assistance because of their business promotion and reduced the 9 months span period to 4 months time, instead of paying entire short fall amount of Rs.9,75,000/-. The opposite party intentionally paid Rs.2,43,750/- as installments in a rotation manner duly obtained pre-undated cheques from the complaints' father and the complainant No.2. The details and modus operandi of the opposite party rotation is as below.

- 9 -

Amount	Date of credit to A.Bhaskar's account by M/s Modi	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A Bhaskar	Date of debit to M/s Modi account from Mahesh Kumar A/C
243750	17-Sep-13	21-Sep-13	21-Sep-13	24-Sep-13
243750	28-Sep-13	10-Oct-13	10-Oct-13	17-Oct-13
243750	21-Oct-13	25-Oct-13	25-Oct-13	31-Oct-13
243750	08-Nov-13	13-Nov-13	13-Nov-13	18-Nov-13
975000				

(From May 2013 to Nov.2013)

The opposite party has paid an amount of Rs.9,75,000/- to the complainants in four (4) installments by means of rotating Rs.2,43,750/- in 4 transactions in the span of 6 months (from May 2013 to Nov.2013) thus resulted expiry of Housing loan validity and one cheque bounce issue. The same as stated above discloses the attitude of the opposite party in providing financial assistance. He was made Rs.2,43,750/- as Rs.9,75,000/- as such the opposite party was intentionally delayed 6 months. It is only made by them for not dropping the sale proposals by the complainants. But not else.

20-11-2 2013:

immediately after completion fulfillment of margin money as per above rotation manner, the opposite party forcedly and registered the villa on the complainants name though the villa was not made ready to occupy and it was in Skelton condition and got released the below mentioned amounts directly from the Housing loan financier without any intimation to the complainants.

1. 27th Nov. 2013 Rs.12,48,000/-
2. 27th Nov.2013 Rs.6,22,000/-
3. Total Rs.18,70,000/-

(Rupees eithteen lakhs seventy thousands only) got released from the financier (i.e. LIC Housing) without any intimation to the complainants. And remaining Rs.3,30,000/- retained with the financier awaiting the occupation letter from the opposite party to release those amounts till today .

16th Feb.2014:

09-6-2014 :

Rs.9.75,000/- which was not reimbursed by the father / husband of the complainants which is amounts kept in his bank awaiting for relaxation of said interest on delayed payments ready to pay and kept in the bank i.e. A.P. VardhamanMahila Cooperated Urban

- 3 -

Bank Limited, Lothugunta Branch, vide A/C No.2291 since. 16-02-2014 and paid on 09-6-2014 vide Cheque No.064939 encashed by OP.

- 01-12-2013 : The Complaints No.1& 2 entitled for Rs. 25,000/- as rent from 1-12-2013 to till the issuing the physical occupation .
- 12-03-2014 : the complainants issued a statutory notice to the opposite party on 12-03-2014 for handing over the villa No.46.
- 10-04-2014: Otherwise, demanding damages and mental agony and the opposite party replied on 10-04-2014 with false allegations. Again the complainants issued another notice on 21-04-2014 for that there is no further reply from the opposite party.
- 21-04-2014 :
- 26-05-2014 : The Complaints No.1& 2 field CD No. 137 of 2014 claiming reliefs therein.
- 09-06-2014 ; The Op Filed Suit vide O.S.No. 98 of 2014 on the file of Hon'ble I ACJ Court at Secunderabad, Hyderabad. claiming the amounts Rs. 20,48,497/- instead of Rs. 3,30,000/-
- 7-10-2014 : The Complainant No.1&2 field W.S. denying the claim and narrating the part of the lapse of the OP.
- 24-07-2015: The District Forum disposed with a direction to the OP. to handover the Villa No.46 and get amounts Rs. 3,30,000/- within one month.
- 18-10-2016: The State Forum dismissed the F.A.No. 152 filed by Complainants as well F.A.No. 138 of 2015 field by the OP. in common orders confirming the District Forum orders.

Hence , The Revision Petition.

NEAT COPY
BEFORE THE NATIONAL CONSUMER DISPUTES REDRESSAL
COMMISSION AT NEW DELHI

R.P.NO. 3377 OF 2016

In the matter of:

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,
Age 58 years, Occ:House Wife.

2) Angadi Mahesh Kumar, S/o Bhaskar, Age:35 years,
rep by his GPA Holder

Both are R/o 1-24-253/1, Flat No.32, Sri Sainagar,
Lotugunta, Alwal, Secunderabad-Telangana State. 500015.

..Petitioners/Compl

Versus

Modi & Modi Constructions,
Rep. by its Partner Soham Modi,
H.No.5-4-187/3 & 4, 2nd Floor,
MG Road, Secunderabad-500003.

.. Respondent/Respondent/O.P.

REVISION PETITION IS FIELD UNDER SEC. 21 OF THE CONSUMER PROTECTION ACT

Most respectfully showed:

That aggrieved by the judgment and Order dated **18-10-2016** passed the Hon'ble STATE CUNSUMER DISPUTES REDRESSAL COMMISSIN of TELANGANA STATE at Hyderabad in F.A. No. 152 OF 2015 the petitioner are filing the present revision petition on the following amongst other

GROUND S

- a. Whether the state forum can pass such orders without giving any rents which caused loss to the complaints to pay Rents Rs. 25,000/- P.M. admittedly the condition to handed over the villa No.46 in the month of October 2013. Even after getting entire hard earned amounts except Rs. 3,30,000/-retaining and awaiting for occupation letter by the Financer.
- b. Whether the Hon'ble state forum can came to the conclusion to dismiss the claim when the OP failed to complete the villa and handed over the same with in stipulated time. i.e. **October 2013**.
- c. whether the sufferings of the petitioner were justified with the impugned

- d. The main object of the petitioners to purchased the Own house by spending huge amounts Rs.39,00,000/-defeated. And attending Rs. 25,000/- P.M. as interest to the Financer and Rs.25,000/- P.M. as paying Rent to the his rented house.
- e. Whether the state forum with dismissal of the FA. meets the ends of justice where as the petitioners claim in his complaint to award his mental agony loss and damages .
- f. The State forum can pass orders without any loss or interest for the said huge amounts paid and the OP. Field suit O.S.No. 98 of 2014 for his amounts Claiming with interest therein. If the Hon'ble consumers Forums failed to protect the interest of the consumer by taking lenient view for non compliance of the clause in agreement if the OS. Filed by the OP may decreed , the huge loss will be caused to the petitioners.
- g. The both forums failed to asses the mental agony and monitory loss for consumer who wants to purchased the property but the OP did not completed the same handed over the same meantime filed the Suit for his late payments and other incidental charges .
- i. The Ld. State commission failed to appreciate the grounds raised by the petitioners in the memo of appeal filed before it.
- j. The O.P. even got entire amounts from hard earned amount of the petitioners and not completed the constructions and not at all handed over the petitioners will caused loss on part of the negligence of the O.P.
- K. The both Forums below failed to impose the compensation or interest to the amounts which the OP has already received Rs. 35,70,000/- out of Rs.39,00,000/- and remaining Rs. 3,30,000/- retained by Housing financier and petitioners constrained to pay interest to the Financers for entire sanctioned amounts of Rs.22,00,000/- and when the OP claiming interest on Rs. 3,30,000/-due because of his delay of made constructions physical handover, the Banker not give the same. And field suit vide O.S. No. 98 of 2014 . the Forum ought be awarded by following the judgment rendered by this Hon'ble Court in **Rajanpaul case dated. 5-7-2016.**

- k. Because the state forum of Telangana has erred in concluding by dismissing the FA without any FINE , LOSS , MENTAL AGONY, INTEREST ON LOAN, PAYING RENTS TO RESIDE BY THEM, caused due to the OP for delay of compensation of constructions, when the OP Filed suit for his amounts.
- l. Without appreciation of mind proper evidence on record and hearing the first appeal the State consumer Redressal forum passed present impugned orders which will not satisfied the mental agony of the complainants which is affected the petitioners which is contrary to the law, and settled by the rulings.
- m. For that the Petitioners have prima facie good case and in all likelihood will succeed before this Hon'ble Court.
- n. The balance of convenience is in favour of these petitioners.
- o. The other grounds that may urged at time of hearing of the revision petition with the permission of the Hon'ble commission.

PRAYER

A "It is most respectfully prayed that this Hon'ble Commission may be pleased to allow the Revision Petition by modified/ set-a-side the orders Dated 18-10-2016 made in F.A.No. 152 of 2015 of the Telangana State Commission , Hyderabad while granting the compensation and mental agony for Rs. 5,00,000/- and Rs. 25,000/- P.M. from October 2013 to until handed over the villa i.e November 2016 38 months X 25,000= 9,50,000/- as damages/rents and allow the Complaint as prayed for and

- b. pass any other or further orders as this Hon'ble Commission may be deemed fit and proper in the facts and circumstances of the case.

New Delhi

Date. 20-2-2017.


Counsel for the petitioner

IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI

REVISION PETITION NO.3377 OF 2016

(From the order dated 18.10.2016 in First Appeal No. 152/2015 of the
Telangana State Consumer Disputes Redressal Commission, Hyderabad)

Angadi Vijaya Laxmi & Anr.

...Petitioners

Versus

Modi & Modi Constructions

... Respondent

BEFORE:

HON'BLE DR. B. C. GUPTA, PRESIDING MEMBER
HON'BLE DR. S. M. KANTIKAR, MEMBER

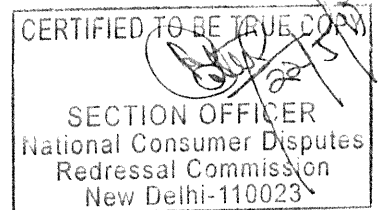
For the Petitioners : Mr. G. L. Narasimha Rao, Advocate

05-05-2017

ORDER

Heard the learned counsel for the petitioners.

Issue notice to the respondent returnable on 11-08-2017.

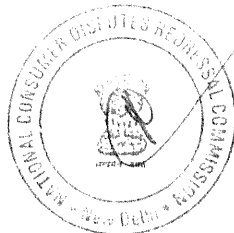


Sd/-

(DR. B.C. GUPTA)
PRESIDING MEMBER

Sd/-

(DR. S.M. KANTIKAR)
MEMBER



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