

MEMORANDUM OF APPEAL UNDER SECTION 15 OF CONSUMER PROTECTION ACT
Before the District Consumer Forum, Ranga Reddy
C.C. No. 27 OF 2017

BEFORE THE HON'BLE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION OF TELANGANA, AT HYDERABAD

F.A.NO. 645 OF 2019

BETWEEN:

1. **Vista Homes,**
D. No. 5-4-187/3 & 4, 2nd floor
Soham Mansion, M.G. Road,
Secunderabad-500 003
Rep by its Partner Sri Bhavesh V.Mehta,
Seunderabad-5000 003

2. Mr. Soham Modi,
S/o. Sri Satish Modi, Aged about: 47 years,
Indian, Occ: Business, Partner M/s. Vista Homes,
R/o. Plot No. 280, Road No.25, Jubilee Hills,
Hyderabad-500 034.

...Appellants/Opposite Parties

AND

Smt. B. Bhavani, W/o. B.S.S. Satyanarayana,
Aged: 58 years, Indian, Occ: Housewife,
R/o. Flat No. 102, B-Block, "Vista Homes",
Kushaiguda, Hyderabad-500 062.

.....Respondent/Complainant

The address for service of all notices and process on the above named appellant of that of their counsel M. Hari Babu & K. Kalpana, Advocates, Flat No.403, 404, Bhavya's Aditya Residency, Opp: G. Narayanamma High School, Mehdipatnam, Hyderabad.

The above named appellant begs to present this Memorandum of Appeal against the order dt. 23-03-2018 in CC No.27 / 2017 on the file of the District Consumer Forum, Ranga Reddy District, at LB Nagar, for the following and among other grounds:

G R O U N D S

1. The order of the District Consumer Forum is contrary to the facts, evidence and law, as such same is unsustainable and the same is liable to set aside.
2. The District Consumer Forum erroneously directed the Appellants (1) to provide water and sewerage connection sanctioned by HMWW&SB (2) to provide wooden flooring in the master bed-room of complainant or refund Rs.50,000/- (3) to pay compensation of Rs.50,000/- and (4) costs of Rs.10,000/- is contrary to facts, evidence, and law, as such the said order is unsustainable and is liable to be set aside.
3. The District Consumer Forum failed to consider that while in the Agreement of Sale or in the Brochure it does not speak about for providing any municipal water or sewage connection as on the date of Agreement and in the Brochure there was no

mention of the availability of municipal water and sewage connection to the area, as such the Appellant opposite party has not promised to provide the said things, and against that the impugned order is passed, as such the same is unsustainable and is liable to set aside.

4. The District Consumer Forum failed to consider that there is no consideration is received for the amenities of municipal water, sewage connection, from the complainant as on the date of Agreement of Sale and in issue of the Brochure no such facility was available in the locality of the disputed flat, as such, the impugned order is unsustainable and is liable to be set to be aside.

5. The District Consumer Forum erred in law in considering the fact that, even though there is no availability of water and sewerage connection of municipality and the same was not provided in the Agreement and in the brochure, whenever such a facility was made arrangements by the municipal authorities, the Opposite parties (OP's) makes application and then also sanction the same, as such the impugned order is holding that there is deficiency on the part of Appellant/ Opposite parties unsustainable and is liable to be set aside.

6. The District Forum failed to consider that, as per the Agreement provided by the Appellant/OP's, though there is no obligation on its part and there is no consideration for providing sewage connection and municipal water to all the Apartments including the complainant's flat but it as a moral obligation it was applied and obtained sanction for the said connections and the same is processed as such there is no deficiency on the part of OP's, as such, the impugned order is liable to be set aside.

7. The District Forum failed to consider that, at the instance of the respondent-complainant the wooden flooring was not provided to the master bed-room and provided the flooring as desired by the complainant but falsely alleged that the OP has not provided wooden flooring as per the agreement is against the fact, as such the impugned order is liable to be set aside.

8. The District Consumer Forum erred in law that, the complainant received the flat without raising any objection and the Appellant issued the No Due Certificate as on 30-05-2015 and the Respondent-Complainant is in possession of the property from that date onwards and peacefully enjoying the same, as such there is no deficiency on the part of the OP's, as such the impugned order is liable to be set aside.

9. The District Consumer Forum erred in law in not considering the fact that the Respondent-Complainant have taken the possession of the property on 30-05-2015 and lived therein for more than 1 ½ year and thereafter gave the legal notice on 05-11-2016 alleging the false deficiencies of not providing flooring as per the brochure and also alleged that no provided municipal water and sewage connection which was not promised either in the Agreement or in the Brochure but the Hon'ble Forum erroneously held that the deficiency in not providing municipal water and sewage connection is unjust, as such the same is unsustainable and is liable to be set aside.

10. The District Consumer Forum erred in law in not considering the fact that the complaint itself is barred by limitation from the date of taking possession of the property, as such, the complaint is liable to be dismissed by setting aside the unsustainable impugned order.

11. The District Consumer Forum erroneously not considering the fact that, after taking possession of the property by the Respondent-Complainant the door was damaged and it is an obligation of the complainant to rectify it, however, the Appellant-Opposite Party repaired & rectified the same with free of cost, as such, the findings of the District Forum that there is a deficiency on the part of OP's is unsustainable and is liable to be set aside.

12. The District Consumer Forum erred in law in not holding that there is mental agony and suffering by the Complainant, as such it was awarded Rs.50,000/- under that head, which is against the fact that the Respondent-Complainant had enjoyed the property or more than 1 ½ years without raising any objection while taking possession of the property but to gain unlawfully the complainant gave the legal notice on 05-11-2016 and filed this false complaint under the guise of not providing the flooring and other things and is accepted by the District Forum is against the real fact, as such, the impugned order is liable to be setting aside.

13 The order of the District Consumer Forum in awarding Rs.50,000/- as compensation towards mental agony and suffering is without any basis and that too be against the fact, as such, the impugned order is liable to be set aside.

14. The District Consumer Forum failed to consider the precedents of the Apex Court as well as Higher commissions and accordingly, resulted in unsustainable impugned order and the same is liable to be set aside.

15. For these grounds and other grounds that may be urged at the time of Appeal. The Appellant herein prays that, this Hon'ble Commission may be pleased to allow the Appeal by setting aside the order dt. 12-03-2017 in CC No.27/2017 on the file of District Consumer Forum, Ranga Reddy District, consequently to dismiss the complaint.

Station: Hyderabad,

Dt: ~~21-04-2019~~

3/12/19

COUNSEL FOR APPEALLANTS

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...Appellants/Opposite Parties

AND

Smt. B. Bhavani
.....Respondent/Complainant

GROUND OF APPEAL

Filed on: April 2019

Filed by:

M. Hari Babu & K. Kalpana,
Advocates, Flat No.403, 404,
Bhavya's Aditya Residency,
Opp: G. Narayanamma High School,
Mehdipatnam, Hyderabad.