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**Before the State Consumer Disputes Redressal Commission
(under Consumer Protection Act, 1986) of Telangana,
Eruvaka Building, Khairathabad, Hyderabad – 500 004**



**FA NO.645 OF 2019 AGAINST CC NO.27 OF 2017
ON THE FILE OF DISTRICT FORUM, RANGAREDDY**

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,
Uttam Towers, D.V. Colony,
Secunderabad – 500 003.
- 2) Mr.Soham Modi S/o Satish Modi,
aged about 47 years, Indian,
Occ: Business, Partner of 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

Counsel for the Appellants : Sri M.Hari Babu
Counsel for the Respondents : Sri A.Naveen Kumar

Coram

:
Hon'ble Sri Justice MSK Jaiswal ... President
and
Smt Meena Ramanathan ... Member

**Friday, the Twelfth day of
February Two Thousand Twenty One**

Oral Order :

This is an appeal filed under Section 15 of the Consumer Protection Act, 1986 by the Opposite parties in CC No.27 of 2017 on the file of District Consumer Forum, Rangareddy feeling aggrieved by orders dated 12.03.2019 in allowing the complaint partly and directing the Opposite parties jointly and severally to provide drinking water and sewerage connections duly sanctioned by HMWS & SB to Vista homes situated at Kushaiguda, Kapra, Rangareddy district; to provide wooden flooring in the master bedroom of the Complainant's

flat No.102, 1st floor, B-Block in Vista Homes or in the alternate pay Rs.50,000/-; to pay compensation of Rs.50,000/- towards mental agony and damages and to pay costs of Rs.10,000/- granting time of (30) days.

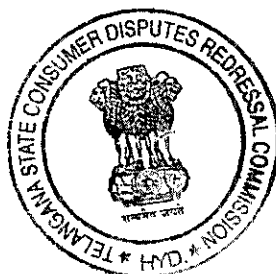
2) For the sake of convenience, the parties are referred to as arrayed in the complaint.

3) The case of the Complainant, in brief, is that lured by the claims of the Opposite parties, the Complainant purchased flat No.102 in 1st floor in B-Block admeasuring 1220 sft super built-up area together with proportionate undivided share of land measuring 74.12 square yards with reserved car parking slot measuring 100 sft in Vista Homes in Sy.Nos.193, 194 and 195 situated at Kapra village, Keesara Mandal, Rangareddy district for a sale consideration of Rs.29,95,750/- vide Agreement dated 26.04.2013 and on payment of the entire consideration, the Opposite parties executed sale deed on 10.04.2015.

4) That the Opposite parties failed to provide several common amenities and internal specifications as agreed. They also failed to provide laminated wooden flooring in the master bedroom. Further, the quality of construction, fixtures and fittings are very poor. Because of heavy winds on 31.03.2016, the main door frame along with the door itself was blown out and came out. The surrounding cement concrete was broken and fell down. They also failed to provide drinking water and drainage connections to the residential complex, instead are providing water through RO plant and collecting maintenance charges. Hence, she got issued notice on 05.11.2016 to which the Opposite parties gave evasive reply.

5) In fact, on 24.04.2013 the Opposite parties submitted an application to the HMWS & SB for providing drinking water and sewerage connections by paying Rs.2,25,000/- towards processing fee. Subsequently, for the reasons best known, they have not processed the application nor paid the requisite fee. Suppressing the same, they gave reply with false and misleading statements. The Opposite parties are running away from their obligations. Hence, complaining deficiency filed the present complaint with a prayer to provide drinking water and sewerage connections duly sanctioned by HMWS & SB to Vista Homes, to provide wooden flooring in the master bedroom of the Complainant or in the alternative to pay Rs.50,000/- as compensation; to pay compensation of Rs.5,00,000/- towards mental agony & costs of Rs.25,000/-.

- 6) Opposite party No.1 filed counter which is adopted by the Opposite party No.2. It is contended by the Opposite parties that the complaint is not maintainable either in law or on facts. It is false to contend that the flat in question was handed over on 10.04.2015 without providing the agreed amenities. In fact, laminated wooden flooring was not provided as per the instructions of the Complainant. The Agreement entered into does not speak about providing of municipal water connection. Quality water being supplied through RO plant, for which, they collected Rs.35,000/- towards electricity connection and RO plant. The main door and door frame have been rectified as soon as the same was brought to their notice. In fact, the Complainant has not raised any objections at the time of handing over possession. Hence, prayed to dismiss the complaint.
- 7) During the course of enquiry before the District Forum, in order to prove her case, the Complainant filed her affidavit evidence as PW1 and got marked the documents Ex.A1 to A7 and on behalf of Opposite parties, one Bhavesh V.Mehta, their partner filed his affidavit evidence as RW1 and got marked the documents Ex.B1 to B14.
- 8) The District Forum after considering the material available on record, allowed the complaint bearing CC No.27 of 2017 by orders dated 12.03.2019, as stated supra, at paragraph No.1.
- 9) Aggrieved by the above orders, the Appellants/Opposite parties preferred this appeal contending that it failed to appreciate the facts in proper perspective and came to erroneous conclusion in directing to provide the wooden flooring in the master bedroom or refund Rs.50,000/-, for payment of compensation of Rs.50,000/- and costs of the complaint. It failed to consider the fact that no consideration is received for providing amenities. The flat was received without raising any objection. After living for more than one and half years, the Respondent/Complainant got issued notice. Further, the complaint is barred by limitation. Hence prayed to allow the appeal by setting aside the orders impugned and consequently to dismiss the complaint.
- 10) The point that arises for consideration is whether the impugned order as passed by the District Forum suffers from any error or irregularity or whether it is liable to be set aside, modified or interfered with, in any manner? To what relief?



- 11) Heard both sides.
- 12) The point in controversy is as to whether the impugned order can be sustained. Firstly, on the ground of want of jurisdiction and secondly the fact that the relief that is sought for cannot be granted to the Respondent/ Complainant.
- 13) Briefly stated, the facts are that the Respondent/ Complainant has admittedly purchased a flat bearing No.102 from out of an apartment consisting of more than 400 flats in Kushaiguda area, for a sale consideration of Rs.29,95,750/- on 30.05.2015 and the possession thereof was delivered. Thereafter, the Complainant found that the construction is not upto the standards and has even found that there was no water connection provided as has been agreed upon by the parties.
- 14) The learned counsel appearing for the Appellants/ Opposite parties submits that it is no doubt a fact that there was no water connection provided since on the day when the possession was delivered there was no water supply in the area provided by the civic authorities. It is submitted and proved by documentary evidence that subsequently when the water connection has been provided to the locality, the Appellant/Opposite party has paid the requisite charges to the authorities and has obtained the water connection.
- 15) The other objection of the learned counsel appearing for the Appellant is that the District Forum erred in entertaining the complaint on the ground of lack of pecuniary jurisdiction. It is submitted that admittedly the cost of the flat is Rs.29,95,750/- i.e., more than Rs.20,00,000/-. As the law was prevailing at that time and in view of the decision of the NCDRC in **Ambrish Kumar Shukla and 21 others vs. Ferrous Infrastructure Pvt., Ltd.**, decided on 19.01.2016, which is holding the field, any dispute pertaining to a property, the cost of which paid as consideration exceeds Rs.20,00,000/-, the proper forum will be the State Commission but not the District Commission. Though this objection was raised, the District Forum has failed to consider the same. This issue goes to the root of the case and hence the complaint ought not to have been entertained. That apart, the relief that is sought for by the Complainant has been acceded to by the Appellant/Opposite party. It is also submitted that as a matter of fact, the complaint by individual flat owner cannot be maintained for seeking an amenity which is intended to be used by

as many as more than 400 flat owners. It is not as though that the complaint has been filed in the representative capacity or by the welfare association. Even on this ground, the complaint ought not to have been entertained.

16) Be that as it may, since the substantive relief that has been sought for has been granted and since the District Forum has got no jurisdiction, we feel that the District Forum ought not to have entertained the complaint and ought to have dismissed the same on the ground of maintainability.

17) In view of the above, the appeal is allowed and the order of the District Forum is set aside. Needless to say that the Appellant/Opposite party should see to it that the basic amenities that have been assured to the Complainant are provided as has been done.

18) In the result, the appeal is allowed by setting aside the orders impugned.

Sd/- President Sd/- Member

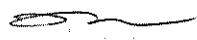
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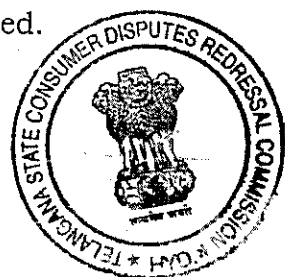
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 Free copy of order delivered to
 Complainant/Appellant/Respondent
 by hand or dispatched on: 18/2/2021

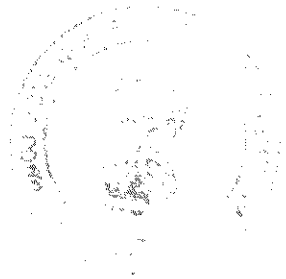
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CC To,

1. The President, District Forum,
2. Petitioners, 3. Respondents


 DESIGNATED OFFICER
 Designated Officer-cum-
 Assistant Registrar
 Telangana State Consumer Disputes
 Redressal Commission, Hyderabad





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