

**BEFORE THE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION, CHENNAI**



**BEFORE HON'BLE THIRU JUSTICE R. REGUPATHI PRESIDENT
THIRU.J. JAYARAM JUDICIAL MEMBER
TMT. P. BAKIYAVATHI MEMBER**

F.A.251/2014

[Against the Order in C.C No. 15/2013 dated 29.4.2014 on the file of the
DCDRF, Thiruvallur]

DATED THIS THE 5TH DAY OF FEBRUARY, 2015

1. D.Thiruvateeswaran
L 13A, Sarvamangala Colony
Ashoknagar, Chennai 600 083

..Appellant/complainant

Vs

The Chief Executive Officer,
Central Govt.Employees' Welfare
Housing Organization,
6th Floor, A Wing Janpath Bhavan,
New Delhi 110 001

..Respondent/opposite party

For Appellant/complainant

: Party in person

Counsel for the Respondent/opposite party : M/s M.Krishnamurthy ✓

This appeal coming before us for final hearing on 25.11.2014 and on hearing the arguments of both sides, and upon perusing the material records, this commission made the following order.

THIRU.J.JAYARAM, JUDICIAL MEMBER

1. This appeal is filed by the opposite party against the order of the District Forum, Thiruvallur in C.C.No 15/2013 dated 29.4.2014 , dismissing the complaint.

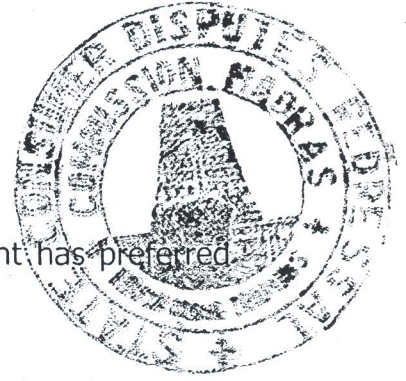
2. The case of the complainant is that he was allotted a 'D' type dwelling unit by the opposite party and as per the terms and conditions of the agreement, the period for completion is 30 months from the commencement of the construction and later the opposite party demanded a sum of

Rs.3,46,100/- as 50% of the projected escalation cost as per para 7 part A of the Rule Book and the complainant asked for arbitration under Rule 39 part B of the Rule book and without appointing an arbitrator the opposite party threatened the complainant with cancellation of his allotment for failure to pay by due date. The complainant paid it under protest and without prejudice.

3. Again the opposite party demanded a sum of Rs. 4,86,050/- consisting of Rs. 3,13,000/- as the 5th installment and Rs. 1,73,050/- towards another 25% of the escalation cost. The opposite party further claimed a sum of Rs.4830/- as interest for the late payment and for escalation clause for 70 days at 15% p.a. and instead of arbitration, the opposite parties asked the complainant to quit the scheme and to accept refund of the amount paid with 6.5 % p.a., simple interest. Left with no option, the complainant paid the additional amount of penal interest of Rs.4830/- This amounts to unfair trade practice and is against natural justice. Hence the complaint praying for direction to the opposite party to refund to the complainant Rs.4830/- charged for late payment along with interest at 18% p.a. and to pay interest at 18% p.a. from the respective dates of payment of the escalation cost (75%) collected in advance in violation of para 7 part A of the Rule Book upto the date of payment of 6th & final installment and to pay compensation of Rs.90,000/- to the complainant for mental agony and physical losses and to pay Rs.10,000/- to the complainant towards cost of the complaint.

4. The opposite party filled version contending that there is no deficiency in service or unfair trade practice.

5. The District Forum considered the rival contentions and dismissed the complaint holding that there is no deficiency in service on the part of the opposite party and there is no unfair trade practice.



6. Aggrieved by the impugned order, the complainant has preferred this appeal .

7. It is pertinent to note that complex issues are involved in this matter and it is a civil dispute which cannot be disposed of by the Consumer Forum following summary procedure and the Civil Court is the proper Forum for adjudication. We rely on the following decisions of the Hon'ble Supreme Court in this regard.

- i) Oriental Insurance Company Limited Vs Munimahesh patel 2007-2 L.W 661
- ii) CCI Chambers Co.op H & G Society Ltd – Vs – Development Credit Bank Ltd – 2003 (4) CTC 299

In the result, the appeal is dismissed, confirming the order of the District Forum dismissing the complaint and granting liberty to the complainant to approach the Civil Court or any other proper Forum for seeking his remedy and the period of pendency of the complaint before the District Forum and the State Commission shall be excluded while determining the period of limitation as contemplated u/s 14 of Limitation Act.

P. Bakiyavathi
P. BAKIYAVATHI
 MEMBER

J. Jayaram
J. JAYARAM
 JUDICIAL MEMBER

R. Regupathi
R. REGUPATHI
 PRESIDENT

INDEX: YES / NO

SV/11/CR

STATE CONSUMER DISPUTES REDRESSAL COMMISSION, CHENNAI	
TAMIL NADU	
1 Date of Order	FA 25/1/14
2 Date when copy was made ready for issue	5.2.14
3 Date of delivery / dispatch of free copy	30.3.14
4 Date of application for duplicate copy	09.03.14
5 Date of issuance of duplicate copy

REGISTRAR,
 STATE COMMISSION, CHENNAI
 TAMIL NADU