

**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.319/2013

[Against the Order in C.C No. 8/2012 dated 2.9.2013 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 Appellants/complainants : 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 8/2012 dated 2.9.2013, dismissing the complaint.

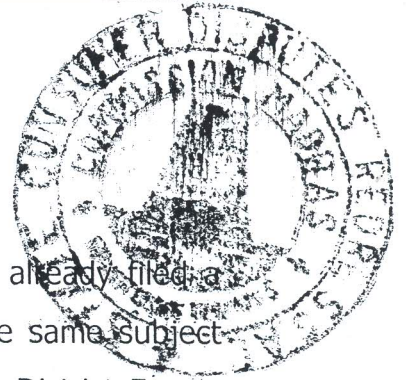
2. The case of the complainant is that the complainant was allotted a Type 'D' flat by the opposite party in February 2006 and he is entitled to get parking area, free of cost, but the opposite party has been selling the parking area for consideration. Further the project has not been completed by the

opposite party. There is heavy delay in completing the construction. The complainant has claimed compensation of Rs. 1,00,000/- for unfair trade practice of collecting consideration in April 2006, before getting the statutory permission and to pay further sum of Rs. 1,50,000/- for a CCP in stilt floor and to pay an additional compensation of Rs. 1,50,000/- for mental agony suffered by the complainant and to withdraw the demand letter of the opposite party to allot parking place and to put on hold or modify the letter calling for payment of the 6th and final installment until community centre and AOA office are offered for possession and to pay costs of Rs.10,000/- to the complainant.

3. According to the opposite party, it is the 2nd complaint filed by the complainant over the same subject matter and the earlier complaint in C.C 40/2010 is already disposed of on 5.7.2011 by awarding compensation of Rs.50,000/- and the appeal filed by the opposite party is pending before the State Commission in F.A 813/2012 and the complainant has filed appeal against the order of the District Forum seeking enhancement of compensation in F.A 925/2012 which is pending. The complainant filed a CMP in FA 925/2012 seeking relief of allotment of parking area which was rejected by the State Commission. Now the present complaint, which is the 2nd complaint has been filed for the same reliefs which are already decided by the District Forum in C.C.No.40/2010. It is settled position of law that the terms of contract bind both the parties and the complainant having entered into an agreement with the opposite party agreeing to pay charges for covered parking, cannot now claim the parking area free of cost.

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

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



6. It is pertinent to note that the complainant has already filed a complaint before the District Forum in C.C.40/2010, over the same subject matter and the issues have already been disposed of by the District Forum awarding compensation to the complainant and the substantial issues in the present/2nd complaint have already been decided in the earlier complaint and nothing substantial survives for fresh consideration in the present second complaint. The present 2nd complaint filed by the complainant leads to multiplicity of proceedings and piecemeal orders.

7. It is relevant to note that the complainant/appellant has agreed to pay for the parking place and the agreement is binding both the parties and having agreed to pay for the parking place, now the complainant/appellant is estopped from claiming parking place free of cost. It is relevant to note the complaint is filed by the complainant in his individual capacity and not in representative capacity. Therefore the question whether parking place can be sold by the opposite parties does not arise for adjudication in this case.

8. There is no infirmity in the order District Forum dismissing the complaint for valid reasons. There is no merit in the appeal and the appeal is liable to be dismissed.

9. In the result, the appeal is dismissed, confirming the order of the District Forum dismissing the complaint.

No order as to costs in the appeal.


P. BAKIYAVATHI
MEMBER


J. JAYARAM
JUDICIAL MEMBER


R. REGUPATHI
PRESIDENT

INDEX: YES / NO
(iv)/OR

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STATE CONSUMER DISPUTES REDRESSAL COMMISSION, CHENNAI
TAMIL NADU **JA 319 / 13**

1 Date of Order **5.2.15**

2 Date when copy was made ready for issue **17.3.15**

3 Date of delivery / dispatch of free copy **26.3.15**

4 Date of application for duplicate copy

5 Date of issuance of duplicate copy

17.3.15
REGISTRAR,
STATE COMMISSION, CHENNAI
TAMIL NADU