



بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

IN THE COURT OF TAHIR PERVEZ DISTRICT & SESSIONS JUDGE, DISTRICT CONSUMER COURT, SAHIWAL.

Case No. 766/DCC/SWL

Dated. 11-06-2011

1. MANZOOR ALIM S/O CH. GHULAM RASOOL R/O HOUSE NO. 2.
2. MUHAMMAD KHALID S/O SHAH MUHAMMAD R/O OUSENO.22
3. MUHAMMAD SARWAR KHAN SAQIB S/O CH. NABI BAKHSH R/O HOUSE NO. 25.
4. MUHAMMAD AZHAR SALAM S/O SALAM UL HAQ R/O HOUSE NO.26.
5. SHAHID PERVAIZ BAJWA S/O ALLAH RAKHA BAJWA R/O HOUSE NO. 28.
6. GHULAM RASOOL S/O RAHIM BAKHSH R/O HOUSE NO.48.
7. PERVAIZ AKHTAR TABASSAM S/O KHOSHI MUHAMMAD R/O HOUSE NO.48.
8. RANA ABDUL HAMID S/O MUHAMMAD HUSSAIN R/O HOUSE NO.56. JEWAN GARDEN HOUSING SCHEEM MUHAMMAD PUR ROAD TEHSILE & DISTRICT SAHIWAL.

-----CLAIMANTS

Versus

1. CH. SAGHEER HUSSAIN CHAIRMAN BOARD OF DIRECTORS JEWAN GARDEN R/O ANJUM FARM BY PASS ROAD, SAHIWAL.
2. CH. ALI RAZA DIRECTOR BOARD OF DIRECTORS JEWAN GARDEN HOUSING SCHEME MUHAMMAD PUR ROAD, SAHIWAL.
3. SHAIKH SHERAZ ANJUM DIRECTOR BOARD OF DIRECTOS JEWAN GARDEN R/O NEW SOHAIL DAIRIES DEPALPUR BAZAR, SAHIWAL.
4. CH. ASIF ALI EXECUTIVE DIRECTOR JEWAN GARDEN HOUSING SHEME MUHAMMAD PUR ROAD, SAHIWAL.

-----DEFENDANTS

CLAIM FOR THE COMPLETION OF TEMRS AND CONDITIONS MENTIONED IN THE ADVERTISEMENT GIVEN BY THE JEWAN GARDEN HOUSING SCHEME REGARDING FACILITIES SUCH AS SEWERAGE, SUI GAS, WATER ,GREEN BELTS, MAIN GATE ETC AND COMPENSATION OF RS. 1, 25, 00,000/ TO THE CLAIMANTS.

Order.

1. Briefly stated facts of the case are that the claimants Manzoor Alim and seven others filed a claim against Ch. Sagheer Hussain Chairman Board of Directors Jewan Garden and three other directors and Executives of Jewan Garden Housing Scheme Muhammad Pur Road,

Sahiwal whereby they claimed damages to the tune of Rs. 1, 25, 00,000/- under the Punjab Consumer Protection Act 2005 besides facilities like sewerage, sui gas, electricity, water, green belts, main gate etc.

2. The claimants purchased plots in Jewan Garden housing scheme Sahiwal from the respondents. The respondents, at the time of sale of plots assured to provide civic facilities i.e fore wall, special security, green belts sui gas, street lights, metal road, electricity, mosque and sewerage system etc but later, they failed to provide these services due to which claimants have to suffer a great mental, physical and financial loss. They prayed that compensation and damages to the tune of Rs. 1,25,00,000/-be awarded to them. They further prayed that the respondents be directed to provide facilities i.e sewerage, sui gas, electricity, water, green belts, main gate as per brochure published by them.

3. All the four respondents resisted the claim in law and facts. They raised few preliminary objections. However, they simply denied the allegations levelled by the claimants. It is significant to notice that respondents did not furnish any specific defence regarding allegations made by the claimants.

4. On 10-03-12, no one turned up on behalf of the respondents. Therefore they were proceeded against exparte. Before that, the evidence of the claimant had been concluded on 31-01-12.

5. During proceedings of the case, on the request of the claimants, a local commission was also appointed to furnish its report in the court.

6. Muhammad Sarwar Khan Saqib one of the claimants Pw-1 and Salah Ud Din Pw-2 appeared in the witness box in order to substantiate allegations contained in the claim. The claimants also relied upon legal notices Ex-P1 to P4, postal receipts Ex-P5 to P8, copy of registered Zameen Haqdaran Ex-P9 to P16, brochure of Jewan Garden Housing Scheme Ex-P17, scheme plan Ex-P-18, extract from newspapers "Sahib" Mark-PA, application in the name of commissioner Mark-PB and notices Mark PC and PD.

7. Muhammad Sarwar Khan Saqib one of the claimants Pw-1 and Salah Ud Din Pw-2 reiterated facts mentioned in the claim. During cross

examination, nothing favourable to the case of the respondents could be elicited from them. However it was noted with concern that Muhammad Sarwar Khan Saqib one of the claimants Pw-1 did not provide the specific detail about the damages/loss sustained in terms of money. The expenses likely to be incurred on provision of facilities to the residents could not be directly handed over to the claimants for the simple reason that it was the responsibility of the developers to do the needful. Simultaneously it can not be doubted that the petitioners who purchased the plots after perusing brochure and scheme plan were entitled to all civic facilities required for any residential area. On the request of the claimants, Mr. Ghulam Ahmad was appointed as local commission to furnish detailed report about the allegations made by the claimants and defence taken by the respondents. The commission submitted his report dated 10-10-11 on 11-10-11 in the court. The local commission inspected the site in presence of both the parties and recorded their statements and in concluding Para, he fully supported the allegations leveled by the claimants. None of the parties, opted to file objection against the said report. Therefore, the report dated 10-10-11 submitted in the court on 11-10-11 could not be ignored.

8. It was noted with concern that the respondents contested the matter till recording of evidence of the claimant and therefore, they absented themselves from the court. Therefore, they were proceeded against exparte. There is no evidence in rebuttal on behalf of the respondents to the allegations leveled by the claimants.

9. The oral as well as documentary evidence produced by the claimants proved it beyond doubt that the respondents developed Jewan Garden Housing Scheme with assurance that the purchasers of plots would be provided all facilities required for any residential area but they failed.

10. In the light of reasons and findings recorded above, claim is accepted in terms that the respondents are severally and jointly held responsible to provide all civic facilities i.e sewerage, sui gas, electricity, water, green belts, main gate etc to the claimants on receipt of order of this Court. The development work required a long time but it is expected that the said development work in the Jewan Garden Housing Scheme shall be started by the respondents within 30 days. If the respondents

failed to do it, the claimants would be at liberty to knock at the door of this court for redressal of their grievances. Claim regarding loss/damages in terms of money to the tune of Rs. 1,25,00,000/- being untenable is refused.

Announced

26-07-2012

**Sd/-
District & Sessions Judge/District Judge
Consumer Court Sahiwal**

Certified that this order consists of four pages, which have been dictated and signed by me.

**Sd/-
District & Sessions Judge/District Judge
Consumer Court Sahiwal**

