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**In the Court of Muhammad Javaid ul Hassan Chishti, District & Sessions
Judge / Presiding Officer, District Consumer Court, Multan**

**Muhammad Usman Khan S/o Aman Ullah Khan R/o 72-Khan Plaza,
Multan.**

(Complainant)

Versus

**1- Asia Housing Scheme, Al-haram City (Danial Block) through Syed
Mazhar Jabbar Bukhari, Branch Manager, 104 Abdali Shopping
Arcade, Nawan Shehar, Multan.**

(Respondent)

Case No. 260/2015
Date of Institution 14.12.2015
Date of decision 27.04.2017

**COMPLAINT UNDER SECTION 25 OF PUNJAB CONSUMER
PROTECTION ACT, 2005.**

ORDER:

1. The brief facts giving rise for the filing of this complaint are that the complainant purchased a plot in phase 6 of Al-haram City (Danial Block) from the respondent with a consideration of Rs. 80,182/- which he paid in 85 installments from 21.04.2005 to 26.03.2013 and the respondent designed this housing scheme as seven years plan to construct the roads, play area parks, sewerage, Mosque, sui gas, electricity etc. Further that the respondent demanded to pay extra Rs. 80,000/- as development charges at the time of purchase of plot and also gave an option to pay the said amount of development charges after completion of installments but after seven years when the complainant visited the site, nothing was developed there and due to incompleteness of development work, the complainant did not pay the amount of Rs. 80,000/- as development charges. Moreover, on 28.01.2014, the respondent issued allotment letter of the plot to the complainant but respondent did not complete the development work.

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Further that due to act of the respondent, the complainant suffered a lot of loss including mental torture and he prayed refund of paid amount of Rs. 80,182/- which now (as per today value due to inflation) is estimated as Rs. 4,25,000/- along with Rs. 500,000/- as compensation as well as Rs. 50,000/- expenses occurred in the shape of visits along with Rs. 50,000/- as litigation charges.

2. On the other hand, respondent has resisted the complaint of the complainant by filing written statement by raising certain preliminary objections including that the complaint of the complainant is based on malafide and is time-barred as such same is liable to be dismissed.

3. The respondent has filed an application for dismissal of complaint under section 35 of the Punjab Consumer Protection Act, 2005 wherein he maintained that the complaint of the claimant is not proceed-able being time-barred.

4. The complainant vehemently opposed the said application by filing reply by raising certain preliminary objections including that the complaint of the claimant is within time and instant application is liable to be dismissed.

5. Arguments heard, record perused.

6. The perusal of record reveals that the complainant completed his installments on 26.03.2013 and the allotment letter was issued to him on 28.01.2014. Therefore, the cause of action arose / accrued to the complainant from the date of issuance of allotment letter when no development work was made in the plot but the complainant sent the legal notice to the respondent on 28.11.2015 and filed his complaint on

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14.12.2015 after expiry of thirty days of arising of cause of action whereas a complaint is to be filed within thirty days of the accrual of cause of action as per section 28(4) of the Punjab Consumer Protection Act, 2005, for ready reference, the same is reproduced as under:

Section 28 (4) of the Punjab Consumer Protection Act, 2005.

“A claim by the consumer or the Authority shall be filed within thirty days of the arising of the cause of action. A claim to be filed after thirty days within such time as it may allow if it is satisfied that there was sufficient cause for not filing of complaint within the specified period. Provided further that such extension shall not be allowed beyond a period of sixty days from the expiry of the warranty or guarantee period specified by the manufacturer or service provider and if no period is specified one year from the date of purchase of the products or providing of services:

In view of the aforementioned section it was necessary for the complainant to file his complaint within thirty days of arising of cause of action that was on 28.01.2014 but the complainant sent the legal notice to the respondent on 28.11.2015 and filed his complaint on 14.12.2015 after expiry of thirty days of arising of cause of action as required under the law. Although the period is extendable but for that purpose, the complainant has to satisfy the court by filing a separate petition that there was sufficient cause for not filing his complaint within the specified period provided by the statute. Whereas in the present case, the complainant has not filed any such petition for the extension of time as discussed above. Keeping in view the sub section (4) of section 28 of the Punjab Consumer Protection Act,

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2005, the complaint in hand is time barred. Reliance is placed on the case laws cited in 2012 YLR 1830 Lahore, PLJ 2014 Lahore, Multan Bench, Multan 170, PLD 2014 Lahore 196, 2014 CLC 1454 Lahore and 2014 CLR 73 Multan. In view of the above mentioned facts and circumstances, the application for dismissal of complaint filed by the respondent is accepted, resultantly, the complaint of the claimant is hereby dismissed being time-barred. File be consigned to record room after its due completion.

**Announced:
27.04.2017**

**(Muhammad Javaid ul Hassan Chishti)
District & Sessions Judge/Presiding Officer,
District Consumer Court,
Multan.**