

**IN THE COURT OF MUHAMMAD KALEEM SHEIKH,  
PRESIDING OFFICER / DISTRICT & SESSION JUDGE,  
DISTRICT CONSUMER COURT, FAISALABAD.**

<b>Arshad Ali s/o M. Rafique Mughal by caste R/o H# 215 Shadab Colony Main Bazar Faisalabad.</b>	<b>M. Aamir Shahzad s/o M. Hussain R/o H# 170/A Liaqat Town Faisalabad.</b>
<b>(Claimant)</b>	<b>(Defendants)</b>
<b>Claim No:</b>	<b>140/2008.</b>
<b>Date of Institution of Claim</b>	<b>29.04.2008.</b>
<b>Date of decision</b>	<b>31.03.2009.</b>

Arshad Ali  
Vs.  
Aamir Shahzad

**ORDER:-**

1. Brief, facts deciphering this case as disclosed from the contents of the claim are that the defendants designed to construct a residential and commercial colony with the name and style of Sharaf-ud-Garden opposite Sangam Petroleum near Jhang Road by-pass affectuate at Killa No. 19-20 Sqr 19 Chak No. 68 Faisalabad which construction plan was published through huge boards, news papers, brochures to attract the public at large, instigating them to purchase such plots there. In such publications, the defendant promised to provide mettled roads, electricity and sui gas connections, sewerage system, boundary wall, commercial market, street lights and security gates.
2. The claimant was also allured to such amenities attached to the plots, hence, he purchased two parcels of land measuring 4 Marlas sarsahis each for consideration of Rs. 85000/- per Marla vide agreement dated 29.03.2007. The claimant paid an amount of Rs. 192000/- as earnest money under the said agreement in presence of witness on 29.03.2007. The claimant has also paid the second installment of the consideration on 17.08.2007. Any how as the defendant had to provide the above said facilities with in the vicinity of the purchased plots before payment of last installment of the consideration on 28.03.2008, but as the same amenities have

not been provided there so far, therefore, the claimant delivered a legal notice in writing to the defendant on 14.04.2008, through postal receipt No. 463 which remains unattended, hence, this claim for return of the total paid amount Rs. 384000/- with the further prayer for recovery of damages/compensation/legal expenses.

3. The defendant has vehemently opposed the above said claim by filing his statements of defence, interalia, on the ground that the claimant has lodged this claim with malafide in order to avoid the payment of remaining consideration amount in the shape of last installment. As this case involved mixed question of law and facts to resolve the controversy after production of evidence of the parties, hence, Arshad Ali the claimant appeared as his own witness through his affidavit EX-PW1/1 as he also adduced the copy of the agreement Mark "A", brochure Sharaf-ud-Din Garden EX-P2, legal notice dated 14.04.2008, Mark "B", post office receipt EX-P3, whereas the defendant got recorded his statement as DW-1 vide his affidavit EX-DW1/1.
4. After conclusion of evidence of the parties, I have heard both the sides at length and perused the record in-estimably.
5. While appearing in the witness's box the claimant Arshad Ali has fully and unequivocally corroborated the contents of his claim. He has also tendered in his evidence the brochure EX-P2 showing that the defendant instigated and goaded the public to purchase plots in Sharaf-ud-Din Garden Scheme by providing the facilities as enumerated therein. Although the defendant has denied such facilities to be provided within the premises of the disputed plots in his affidavits EX-DW1/1 but when subjected to cross examination he has disclosed that he is the owner of Sqr. No. 49 but that the land where the purchased plots were located happened to fall in Sqr No.19 smacking malafide on his part in providing service to the claimant as well as other purchasers under the circumstance that he has admitted the contents of agreement Ex-P2.

6. It would be pertinent to reproduce the contents of Para No. 1 on facts submitted by the defendant No.1 adverbatum, as under;

From the above said facts, circumstances and admissions of the defendant in this case as the facts admitted need not be proved, I have squeezed out following points with clarity;

- A. The defendant has attracted the public to purchase the plots in his residential/commercial scheme with the name and style Sharaf-ud-Din Garden and promised to provide the basic facilities of life there vide EX-P2 read with his admissions above referred;
  - B. Having attracted the public with the above said brochure EX-P2 and the promises made by the defendant, the claimant was also entangled in the cobweb of the defendant and he purchased two plots at the above said place at Sqr. No 19 which was not factually the ownership of the defendant smacking his malafide in this regard;
  - C. From the admission of the defendant in para No.1 on facts of his written statement it transpires that the price of the plot included the charges of the facilities and development which have not so far been provided;
7. The upshot of the above whole discussion is that the claimant has proved his case beyond any shadow of doubt to my entire satisfaction showing that the services of the defendant are not only faulty but also defective. Accordingly, the claim is hereby

accepted. The defendant shall now return the received amount Rs. 384000/- as price of the plots to the claimant; he shall also pay an amount of Rs. 5000/- as damages/compensation and further amount Rs. 5000/- as litigation expenses incurred by the claimant in lodging this claim. The defendant shall pay the above said decretal amount Rs. 394000/- to the claimant within the period of 30 days otherwise he shall be dealt with u/s 32(2) of the Punjab Consumer Protection Act, 2005. File be consigned to the record room after its due completion.

**Announced  
31.03.2009.**

**Muhammad Kaleem Sheikh,  
Presiding Officer/  
District & Session Judge,  
District Consumer Court, Faisalabad.**

Certified that this judgment consists of four pages, dictated, signed and corrected by me.

Muhammad Kaleem Sheikh,  
Presiding Officer/  
District & Session Judge,  
District Consumer Court, Faisalabad