

Date of Filing: 18.11.2021  
Date of Disposal: 17.07.2023

**BEFORE THE III ADDITIONAL BANGALORE URBAN  
DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION,  
BENGALURU - 560 027.**

**DATED THIS THE 17th DAY OF JULY 2023**

**CONSUMER COMPLAINT NO: 433/2021**

**PRESENT:**

**SRI. SHIVARAMA. K : PRESIDENT**  
**SRI. CHANDRASHEKAR.S.NOOLA : MEMBER**  
**SMT.REKHA SAYANNAVAR : MEMBER**

Mrs. Apoorva S. Kademane,  
W/o. Vinod Bhadrashetty,  
Aged about 30 years,  
R/at No.B-212, Vinyas Virtue Apartment,  
Sharadamba Nagar, Jalahalli Village,  
Bengaluru-5600013.

**(Party in Person)**

**.... COMPLAINANT**

**V/s**

The Commissioner,  
Bangalore Development Authority,  
T. Chowdaiah Road,  
Kumara Park West,  
Bengaluru-560020.

**(Rep. by Sri. Shashank. S)**

**.... OPPOSITE PARTY**

**// JUDGEMENT //**

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**BY SRI. CHANDRASHEKAR. S. NOOLA, MEMBER**

01. The complainant has filed this complaint Under Section 35 of the Consumer Protection Act 2019. The complainant requests this Commission to direct the opposite party to refund a total amount of Rs. 8 lakhs, which includes Rs. 5.04 lakhs collected as excess amount towards GST, Rs.2,00,000/- towards car parking, and Rs. 96,000/- towards interest, rental loss, and other expenses.

**The brief facts of the case are as follows:**

02. The complainant states that they were allotted a row house or Villa in Bangalore for Rs.42 lakhs, with an additional payment of Rs.91,250, totaling Rs.42,91,250/- However, the Bangalore Development Authority (BDA) demanded and collected Rs. 2 lakhs towards car parking and Rs.5.04 lakhs towards GST, which the complainant believes to be illogical.

Furthermore, the complainant points out that the original advertisement by the BDA did not mention any charges for car parking or GST. It was only later that the BDA issued a notification regarding car parking charges. The complainant argues that the BDA had already collected VAT or other applicable government levies during the construction of the house, making the collection of GST duplicative. At the time of house allotment, 90% of the construction was already completed, with only 10% of the

work remaining. Due to delays in the allotment process, the complainant had to bear rental and interest expenses amounting to Rs. 40 lakhs.

- 03.** The complainant alleges that the BDA is collecting different Amounts towards GST from different allottees for the same area and type of houses. It is also claimed that the BDA is currently not collecting any GST from anyone, which is inconsistent and against government rules. The complainant's representation to the BDA regarding the cancellation of GST charges was not heeded.

The complainant asserts that GST should be calculated only on the building value, whereas the BDA is calculating GST on both the land and building value, which is contrary to GST rules.

- 04.** Additionally, the advertisement by the BDA did not mention any car parking fees, and it was only through a subsequent notification that the payment for car parking was introduced. The complainant points out that the allotted car parking spaces are not registered to the allottees.

- 05.** The opposite party rejecting the allegations made by the complainant and presents the following arguments in their defense:

- 06.** The complainant's claim is baseless as they had been

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issued an allotment letter for the flat on 24th August 2017, after fulfilling the requirement of paying the initial deposit amount. This letter was provided following a public invitation for flat applications on a first-come, first-serve basis, as per a notification dated 1st August 2017.

- 07.** The project's completion occurred on 31st January 2019, as per the official completion certificate. In accordance with applicable regulations, a GST of 12% was levied, resulting in an amount of Rs.5,04,000/- The opposite party categorically denies any false representation regarding the selling price, which was explicitly stated to be exclusive of VAT. The GST is only applicable to allottees' who applied before the completion of construction. For those who applied after the completion, GST does not apply. To further substantiate their position, the opposite party brings attention to an ongoing writ petition, WP number 51001 of 2019, which is currently pending before the honorable High Court of Karnataka. This petition directly concerns the demand for GST made by the Bangalore Development Authority (BDA), providing additional support for the opposite party's stand.
- 08.** The opposite party refers to a paper notification dated 3rd November 2017, issued by the BDA, which clearly specified that car parking spaces for the respective housing projects would be allocated based on a first-come, first-serve basis.

The notification explicitly stated that a payment of Rs. 2 lakhs was required for car parking allotment. Moreover, it clearly outlined the issuance of a separate allotment letter and sale deed exclusively for the car parking, thereby eliminating any possibility of refunding the aforementioned amount.

09. After considering the affidavit evidence and documents presented by both the complainant and the opposite party, the following points arise for our consideration:
10. Counsels for both the parties have filed their respective written arguments with citations.
11. Heard the arguments.
12. The points that would arise for consideration are as under:-
  - i) Whether the complainant has proved the deficiency in service and unfair trade practice on the part of the Opposite Party? If so, to what relief the complainant is entitled for?
  - ii) What order?
13. Our findings on the aforesaid points are as follows:-

**Point No.1:** Partly In Affirmative.

**Point No.3:** As per the final order for the following:

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14. Whether the complainant has suffered a deficiency in service on the part of the opposite party, and if so, whether the complainant is entitled to the relief sought?

What order should be issued in this matter?

Our answers to the above points are as follows:

**Point number 1:** In affirmative.

**Point number 2:** The final order will be issued based on the following reasons:

### **REASONS**

**POINT No.1:** The complainant raises two grievances against the opposite party. Firstly, the complainant alleges that the opposite party has endorsed the payment of GST charges at the time of registration of the sale deed. Secondly, the complainant disputes the additional charge of Rs. 2,00,000/- for the car parking area, claiming that the car parking is included in the undivided share and should not attract an additional fee. The opposite party submits that there is a pending writ petition (WP No.51001/2019) before the honorable High Court of Karnataka regarding the demand for GST made by the Bangalore Development Authority (BDA). The outcome of this writ petition will determine the course of action for the opposite party. The BDA argues that it is unreasonable to request a refund of the paid car parking amount. The pendency of writ petition is not disputed by the complainant.

18. Considering that the matter of charging GST is pending before the Hon'ble High Court of Karnataka. The decision on whether to pay GST or receive a refund will be contingent upon the outcome of the honorable High Court of Karnataka's decision mentioned above.

Regarding the parking area, it is deemed to be part of the undivided share, and therefore the complainant is not obligated to pay an additional amount of Rs. 200,000. It is worth noting that the allotment letter dated 24th August 2017 vide EX-P1=Flat price Rs.42,00,000/- does not mention any car parking charges. Subsequently, a separate notification was issued by the BDA on 3rd November 2017 vide EX-P3 providing details about the parking slots, which this Commission finds to be unfair. The opposite party also acknowledges issuing a notification on 3rd November 2017, clearly stating the BDA's intention to allot available covered car parking slots to the respective housing projects allotted. They do not contest the fact that complete information about car parking was not provided at the time of or prior to the allotment. The essential information is the opposing party's responsibility to tell the consumer of any charges that will be levied at the initial stage so that the consumer can make an informed decision. Hence, the circular vide EX-P3 is against natural justice. Therefore, the act of opposite party amounts to deficiency of service and unfair trade practice within the meaning of Sec.2 (11) & 2 (47) of CP Act, 2019.



The citation given by the complainant during the time of written argument is only applicable to the State of Maharashtra. As a result their citation is inapplicable in this circumstances. Accordingly **POINT No.1 is answered In Affirmative.**

**19. POINT NO.2:** In the result, for the foregoing reasons, we Proceed to pass the following:

**ORDER**

The complaint is allowed in part.

The opposite party is directed to refund the car parking charges of Rs 2,00,000/-.

The opposite party is directed to pay Rs10,000/- towards cost of litigation and other expenses.

The above order is to be complied within two months from the date of receipt of this order failing which the complainant is at liberty to take steps as per law.

Supply free copy of this order to both the parties.

Applications pending, if any, stand disposed of in

Terms of the aforesaid judgment.

(Dictated to the Stenographer, typed by her, the transcript corrected, revised and then pronounced in the open Commission on 17<sup>th</sup> day of July 2023)

 17/07/2023.
 
 17/07/23  
**(REKHASAYANNAVAR) (CHANDRASHEKAR.S.NOOLA) (SHIVARAMA. K)**  
**MEMBER MEMBER PRESIDENT**





## //ANNEXURE//

**Witness examined for the complainant side:**

- Nil -

**PW-1 The complainant :-****Documents marked for the complainant side:**

1. Xerox copy of the BDA allotment letter dt.24.08.2012. EX-P1
2. Xerox copy of Loan sanction letter dt.19.06.2020. EX-P2
3. Xerox copy of Notification. EX-P3
4. Xerox copy of letter dt.18.12.2020 by Complainant. EX-P4
5. Xerox copy of letter dt.11.01.2021 by Complainant. EX-P5
6. Xerox copy of letter dt.23.06.2021 by Complainant. EX-P6
7. Xerox copy of Endorsement. EX-P7.
8. Xerox copy of Endorsement dt. 17.02.2021. EX-P8.
9. Two BDA estimation challan. EX-P9.
- 10.Xerox copy of Aadhar card. EX-P10.
- 11.Xerox copy of project completion report. EX-P11.

**Witness examined for the opposite party**

- Nil -

**Documents marked for the Opposite Party**

1. Xerox copy of printout said to be the paper publication.  
EX-R1.
2. Xerox copy of GST calculation in the name of Complainant.  
EX-R2.
3. Xerox copy of completion certificate dt. 21.02.2019.  
EX-R3.

 17/07/2023  
 (REKHASAYANNAVAR) (CHANDRASHEKAR.S.NOOLA) (SHIVARAMA. K)  
 MEMBER MEMBER PRESIDENT

