



DECISION

Complaint No. :

POS/4325/KE/295/2023

Name and Address
of the Complainant :

Mr. Muhammad Zafiruddin, R/o. A-11/4, Eastern Pride,
FL-23, Block-15, Gulistan-e-Jauhar, Karachi.

Name of the Agency
Complained against :

Sindh Building Control Authority

Name & Designation of
Investigation Officer :

Syed Farrukh Habib
Director, Regional Office, Karachi (East).

Subject :-

**ALLEGED INACTION by SBCA AGAINST M/S.
MARIA BUILDER (PVT) LTD FOR THEIR FAILURE
TO ISSUE POSSESSION ORDER, EXECUTION OF
SUB-LEASE AND PAYMENT OF COMPENSATORY
AMOUNT IN RESPECT OF FOUR SHOPS NO. 96-A,
141-A, 616-A, 662-A, "ERUM SHOPPING EMPORIUM"
PHASE-II, PLOT NO. ST-5/2, SECTOR 14-B, NORTH
KARACHI, BOOKED BY COMPLAINANT IN 1987.**

THE COMPLAINT

Mr. Muhammad Zafiruddin in his complaint dated 08.06.2023 stated that M/s Maria Builders (Pvt) Ltd. launched a project "Erum Shopping Emporium, Phase-II, ST-5/2, Sector 48-B, North Karachi in July, 1987 putting advertisements in print media all over Pakistan for the booking of "Erum Shopping Emporium Phase-II" as a ground + one story purely commercial complex with no residential floors or apartments. The builder also promised/committed to provide various facilities required for an attractive commercial complex. The Builder also promised to give possession of shops in 15 months. The complainant alleged that the builder, after selling the shops completely changed the project's design from ground + one storey commercial complex to 6 story residential + commercial building without informing and taking any permission from the owners of ground + one storey commercial complex. The complainant stated that he had booked four shops and paid the cost and documentation charges of his Shop Nos. 96A, 141A, 616A, 662A, but the builder has failed to give possession of his two shops viz. 616A, 662A and yet not sub-leased the four shops.

2. The complainant further stated that he had informed Sindh Building Control Authority about the builder's irregularities and his concerns. He further stated that the builder neither provided the architectural, structural drawings nor its completion certificate. In this regard, he approached the Director General, Sindh Building Control Authority, Karachi vide letter dated 02.11.2022 and requested for arranging possession, lease and payment of compensatory amount followed by reminder dated 07.12.2022 but no positive response was received. He therefore, requested to take necessary action and issue instructions to SBCA to resolve the issue without further delay by providing (a) Completion Certificate of the Project, (b) Sub-Lease, Possession and payment of compensatory amount against the delay in possession of shops.

PROCEEDINGS

3. After admitting the complaint under Section 10 of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991, (amended up to date), as well as after receiving mandatory Affidavit on Form "A" and other relevant documents, report was called from the Agency. In response the Deputy Director, PSA&C, Design Section, SBCA vide letter dated 06.10.2023 furnished report that three Projects, all very old exist by the name of (1) "ERUM SHOPPING EMPORIUM" Plot no. ST-07, Sector no. 15-A/2, North Karachi (a project of M/s. Erum Developers), (2) "ERUM SHOPPING EMPORIUM" (with its new name "ERUM AVENUE" as per Revised Sale NOC) at Plot no. ST-08, Sector no. 15-A/3, North Karachi (a project of M/s. Super Builders), (3) "ERUM SHOPPING EMPORIUM" at Plot no. ST-5/2, Sector no. 11-B, North Karachi (a project of M/s. Al-Maria Builders). In order to determine as in which project complainant had actually booked Shops over 33 years ago, the Agency was advised to conduct visit of site with complainant to help identify the building / project. Once after that building was identified it turned out to be "Maria Shopping Centre". The Agency SBCA issued notice to the reported builder i.e. M/s. Maria Builders (Pvt.) Ltd. & its sister/allied company M/s. Erum Developers at their all-known head-office addresses. vide dated 27-01-2023 & 07-02-2023 with names of the partners Muhammad Ali Adhia, Rizwan Adhia & Sufian Adhia mentioned thereon (as provided by the complainant himself, in the shape of his correspondences he had with the builder, through his letters dated 21.12.2022).
4. The Agency informed that in response to its notices, reply was received from M/s. Syed Yousuf All & Company (the Legal Consultants & Advocates), dated 11-03-2023, on behalf of their clients i.e Muhammad Ali Adhia, Rizwan Adhia & Sufian Adhia; with intimation that their mentioned 03 clients NEITHER have any concern with M/s. Maria Builders (Pvt.) Ltd. Nor any money has been collected by them from the allottee/complainant named Mr. Muhammad Zafiruddin against his mentioned booked shops. In addition to this, the necessary relevant information was then also taken from the concerned record keeper/staff of Design Section, whereby it was informed that Muhammad Ali Adhia, Rizwan Adhia Sufian Adhia are not related to M/s. Maria Builders (Pvt.) Ltd. or M/s. Erum Developers.
5. The SBCA further submitted that the complainant had appeared in their office along with his subject-noted grievances in Nov/Dec 2022. And before that (as reported by himself), he had lodged his complaint against the builder for the first time in K.B.C.A. on 2nd January, 2002 (almost 21 years ago). However, at the same time, a joint meeting was also held accordingly between the builder & the said complainant by the then Deputy Controller of Buildings, Design Section, K.B.C.A on 20th March, 2002 (intimated through SBCA letter dated 04-03-2002). But regrettably, the concerned complainant did not properly followed it with the department and disappeared for a long span of time & then reappeared in Nov/Dec 2022, and informed that he was staying abroad during this period.
6. The complainant in his rejoinder dated 17.11.2023 reiterated his earlier contention as mentioned in the memo of complaint.

(3)

7. The Investigating Officer fixed the case for hearing on 22.01.2024, which was attended by the complainant and Mr. Furqan Yar, Assistant Director, SBCA. During the course of hearing Agency's representative explained that no record is available with SBCA with respect to approval of design / plan and NOC of the project and due to very old matter SBCA is unable to take action.

FINDINGS

8. I have examined the case file and perused correspondence, reports and rejoinders etc., and observed that:

- i. The complainant had booked shops in the project in question in 1987 and filed a complain to the then KBCA first time (after 14 years) in 2001, where after, he went silent and resurfaced again in 2022, (after another 21 years) when he filed complain with SBCA, and then before this forum on 09.06.2023 after passage of 34 years, as such the matter is poorly time barred as defined under section 10(3) of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991, (amended up to date).

CONCLUSION

9. In view of above, the complaint is hereby rejected. Complainant is however at liberty to approach a Civil Court towards redressal of his grievance, if he so desires.

Given under my hand and seal of the office

Sd /-
(Muhammad Sohail Rajput)
Sitara-e-Imtiaz. PAS
Ombudsman Sindh

Karachi, dated 13 - 02 - 2025