

Consumer Protection Act, 1986 Section 2 (r) - 'Unfair trade practice' - Agreement - The contractual terms of the Agreement are ex-facie one-sided, unfair, and unreasonable - The incorporation of such one-sided clauses in an agreement constitutes an unfair trade practice as per Section 2 (r) of the Consumer Protection Act, 1986 since it adopts unfair methods or practices for the purpose of selling the flats by the Builder - We have no hesitation in holding that the terms of the Apartment Buyer's Agreement were wholly one-sided and unfair to the Flat Purchaser - The Builder could not seek to bind the Flat Purchaser with such one-sided contractual terms.

Held,

Builder agreement - Finding of National Commission that the Clauses relied upon by the Builder were wholly one-sided, unfair and unreasonable, and could not be relied upon, upheld - Buyer's Agreement - Stark incongruities between the remedies available to both the parties - Whereas entitles builder to charge Interest @18% p.a. on account of any delay in payment of installments from the Flat Purchaser and to cancel the allotment and terminate the Agreement, if any installment remains in arrears for more than 30 days, if the Builder fails to deliver possession of the apartment within the stipulated period, the Flat Purchaser has to wait for a period of 12 months after the end of the grace period, before serving a Termination Notice of 90 days on the Builder, and even thereafter, the Builder gets 90 days to refund only the actual installment paid by the Flat Purchaser, after adjusting the taxes paid, interest and penalty on delayed payments and pay Interest @9% p.a. only - Further Agreement entitles the Builder to serve a Termination Notice upon the Flat Purchaser for breach of any contractual obligation and if flat purchaser fails to rectify the default within 30 days of the Termination Notice, then the Agreement automatically stands cancelled, and the Builder has the right to forfeit the entire amount of Earnest Money towards liquidated damages, whereas if Flat Purchaser fails to exercise his right of termination within the time limit provided then he shall not be entitled to terminate the Agreement thereafter, and shall be bound by the provisions of the Agreement.

[2020 Scej 528](#)