

**OFFICE OF THE FEDERAL OMBUDSMAN**  
**FOR PROTECTION AGAINST HARASSMENT OF WOMEN**  
**AT THE WORKPLACE, ISLAMABAD**

FORM OF ORDER SHEET

Complaint No. FOH-HQR/0000160/2021

Serial No. of Order of Proceedings	Date of order of Proceedings	<b>THE ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT, 2020</b> Order of other proceedings with Signature of Federal Ombudsman <b>TITLE: BAKHT BIBI VS RAJA ALI AKBAR &amp; OTHERS</b>
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	23-08-2022	<p>Complaint No. <u>FOH-HQR/0000160/2021</u></p> <p>Mr. Bakht Marin, husband of Complainant present.</p> <p>Respondent Abdul Rehman along with counsel Mr. Mufeed Khan Yousafzai, advocate present.</p> <p>Mr. Ali Rathore, advocate on behalf of Ch. Usman respondent No.3 present.</p> <p>At the very outset, it may be observed without fear of any contradiction, that the instant case is a glaring example of violation of the rights of a woman by means of harassment, coercion, force and fraud of the so-called Housing Society operating in the name of "Ghuri Town Islamabad". Unfortunately, there has been Mashroom growth of bogus and illegal societies in the country which are looting and plundering the innocent people, in the day light, of their hard-earned savings and wealth but the state</p>

machinery meant for curbing the activities of anti-social elements has become helpless before this mafia. Everyday stories of such frauds and embezzlements are published in the print and electronic media with documentary proofs but nothing is being done to eliminate this menace from the society. All the concerned quarters are required to rise to the occasion to curb this trend before it is too late.

While coming to the facts of the instant case, a woman namely Bakhti Bibi purchased two plots, 25x50 each No.6198 and 6199 in Phase-Ali Ghauri Town Islamabad through sale deeds dated 16-12-2016 on payment of sale consideration of Rs.12,50000/- each. She paid the entire sale consideration, total Rs.25,00000/- to the vendor namely Raja Ali Akber and Abdur Rehman (respondent No.1 & 2). The vendors handed over original file of the subject plots to the vendee with the commitment that they would transfer that property in the name of the purchaser, also delivering her physical possession within two months. After having paid such a big amount to the sellers, the purchaser lady got tired of getting the property transferred in her name but all her efforts proved abortive. Subsequently the two sellers (respondent No.1 &2) told the purchaser lady that they had made the partnership with Ch. Usman (respondent No.3) and that the management affairs of the society were entrusted to him, therefore, the subject property would be transferred to her after consultation and negotiation with respondent No.3. The poor lady kept on moving from one person to the other for getting the plots alienated in her name but all her efforts ended in smoke. Having got disappointed from the sellers, the lady purchaser knocked at the door of this forum for redressal of her grievances.

Notices were issued to the respondents Raja Ali Akber, Abdur Rehman and Ch. Usman for their attendance and replies. Later on Green Housing through its Chairman Khokhar Road Rawalpindi was also impleaded as respondent No.4. During the course of proceedings it transpired that respondent No.3 Ch. Usman had surrendered and abandoned his rights and interest in Ghouri Town and it was exclusively restored or taken over by its old management. Almost in every news-papers of the area, a public notice was published wherein it was specifically mentioned that the plots allotted by Raja Ali Akber (deceased) and Abdur Rehman would be transferred to the allottee by the new management and hence those allottees should not contact any unconcerned person. All those adds are placed on the file. One Raja Jehangir Akber was shown as a new owner of Ghouri Town, being son of Raja Ali Akber (deceased). He appeared on the Facebook with the commitment to resolve the problems of the affectees.

Since the grievance of Mst. Bakht Bibi was not being redressed on one pretext or the other, this forum appointed local commission to visit the site to obtain and take physical possession of plots of the Complainant including measures to perfect such title. The local commission Ms. Ambreen Nawaz, Advocate High Court visited the site on 20-04-2022 and inspected the place conducting survey through the local population. She approached and talked to the management of Akber and Rehman Plaza Head Office to discuss the matter with them. She also recorded statement of Ch. Usman who expressed, his disassociation with the said society submitting that the Complainant had purchased the suit property from Raja Ali Akber and Abdur Rehman directly and as such she should confine her claim only to those two persons. The local commissioner met with Raja Amir Zafar, MD of Akber and Rehman and Muhammad

		<p>Ramzan an authorized representative of the society. They both gave their assurance regarding compliance of the order of this forum. They further undertook that after demarcation, the Complainant would be delivered possession of the property on 23-04-2022 through Mr. Azhar Satti. On Saturday 03-04-2022, the plots were demarcated and delivered to the Complainant in theory but no transfer letter was issued nor possession letter issued to her. The commission in its report concluded that Ghauri Town was a controversial and illegal society whereby the simple people were being deceived at the whims of Real Estate Agents. Further observed that Capital Development Authority (CDA) also intimated the public at large regarding the fraud played and practiced at Ghauri Town Islamabad. The commission recommended that to safeguard the interest of the Complainant the transfer letter and possession letter of the said plots be requisitioned immediately by this forum and boundary wall should also be erected around the said plots without further delay to avoid future complication.</p> <p>Despite commitment and undertaking to deliver possession to the Complainant, the position on the spot did not change and the respondents did not deliver physical possession of the two plots to the Complainant. It was another fraud on the part of the management of Ghauri Town that they issued two certificate of possession dated 15-06-2021 to show that they handed over possession to the vendee of Plot No.6198/RES and No.6199/RES in 7-Usman exit but on the spot still they did not give such possession to the vendee. During the process before this forum the respondents were represented by Mr. Mofeed Khan Yousafzai, advocate and all the time the learned counsel rescued his clients on one pretext or the other. He made several commitments before this forum to deliver possession of the plots to the Complainant lady</p>
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but all the time his commitments proved writing on the sand. Frankly speaking the learned counsel did not come forward to assist the court as an officer of the court rather to restrict his services to protect his clients from the operation of law. The conduct of the learned counsel Mr. Mofeed Khan Yousafzai, advocate has, thus, earned displeasure of this forum which may be conveyed to the relevant forum i.e. Islamabad Bar Council for appropriate action. It is observed with heavy heart that the learned counsel has shown deficiency in displaying his required professional conduct as expected of him being an officer of court.

The record of the case is quite clear that plot No.6198 and plot No.6199 measuring 25x50 each situated in phase-Ali, Ghauri Town have been sold by Raja Ali Akber and Abdur Rehman to the Complainant Bakht Bibi after receiving big amount from the purchaser and for that matter they are responsible and bound to transfer and to deliver possession of those plots to the vendee. There can be no excuse or justification on their part to defer or delay the delivery of possession to the vendee. The Complainant is not required to ask for possession from any other person i.e. Ch. Usman or Green Housing etc because she purchased the property from Raja Ali Akber and Abdur Rehman at the time when the other people had no involvement whatsoever. Since Raja Ali Akber has been passed away, his legal heirs are bound legally and morally to honor the commitment of their predecessor in interest. Raja Jehangir Akber has already appeared on Facebook with the commitment to solve the problems of the allottees.

In view of above, while invoking section 5 of Enforcement of Women's Property Rights Act, 2020, I found that the Complainant has been illegally deprived of her ownership and possession of the property and as such I shall direct the SSP Operation's Islamabad

to restore possession of the property to the Complainant. He may use all the force permissible under the law against the respondents at the time of delivering possession to the Complainant, If they offer any resistance in execution of this order.

On this occasion I would also like to discuss some relevant provisions of the law attracted and applicable to the instant case.

Section 3 of the Enforcement of Women's Property Rights Act 2020 pertains to the powers of Ombudsman which is reproduced below for convenience.

**3. Powers of the Ombudsman.** *In addition to the powers, functions and authority under this Act and Rules made hereunder, the Ombudsman for the purpose of this Act, shall have the same powers, functions and authority as are vested in the Ombudsman for the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).*

The above section of the Act would show that the cases being conducted and inquired into under the provision of the Act 2020, Ombudsman has also got the same powers, functions and authority as are vested in the Ombudsman for Protection against Harassment of Women at the Workplace Act 2010.

Under section 5 of the Act 2020 Ombudsman is empowered to issue direction to the Deputy Commissioner concerned or a state functionary or to any private person to take steps so as to restore or confer possession or title of the property to the Complainant, including measures to perfect such title.

Section 9 of the Act ibid confers powers upon the Ombudsman to direct any executive state functionary to execute the orders in letter and spirit.

The Act called the Federal Ombudsmen Institutional Reforms Act 2013 (Act No. XIV of 2013) is enacted to make institutional reforms for standardizing and harmonizing the laws relating to Federal Ombudsmen Institution in the matters ancillary or akin thereto. It is meant to enhance effectiveness of the Federal Ombudsman to provide speedy and expeditious relief to citizens by redressing their grievances to promote good governance.

Section 10 of the Act 2013 empowers the Ombudsman, in addition to powers exercise by him under the relevant legislation, also to have powers of a civil court, namely:-

- (i) Granting temporary injunction and
- (ii) Implementation of the recommendations, orders or decisions.

It would mean that the Ombudsman has got those powers regarding implementation of its orders or decision as are vested in a civil court in that connection. Since the Civil Court got powers for execution under Order XXI CPC, the Ombudsman has also got the same powers in view of section 10(ii) of the Act 2013. Order XXI of CPC is quite elaborate and exhaustive covering almost all the modes and methods pertaining to execution of court decree and orders.

In view of above, this forum can follow and use all those provisions for execution proposes which are mentioned in Order XXI of Civil Procedure Code.

Rule 54 of Order 21 CPC deals with attachment of immovable property of the judgment debtor. Such attachment shall be made by

the order prohibiting the judgment debtor from transferring and charging the property in any way, and all persons from taking any benefit from such transfer or charge.

Rule 98 of Order XXI CPC describes the method where court is satisfied that the resistance or obstruction is occasioned without any just cause by the judgment debtor or by some other person at his instigation. The court then shall direct that applicant be put into possession of the property and where the applicant is still resisted or obstructed in obtaining possession the court may also, at the instance of the applicant order the judgment debtor or any person coming at his instigation to be detained in prison for a term which may extend to thirty days.

The facts of the instant case convince me to invoke all the provisions discussed in the preceding paras to deliver possession of the property to the woman complainant who has suffered a lot at the hands of the land mafia. SSP Operations must follow the directions of this forum in letter and spirit as is required of him, to execute the orders to redress the grievances of the poor lady.

Needless to remind to the state functionary that execution of Ombudsman's order is to be complied with stricto sensu in view of the special legislation in this regard.

**FEDERAL OMBUDSMAN**