JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

REGULAR FIRST APPEAL NO. 54 OF 2001

CAPITAL DEVELOPMENT AUTHORITY
VS
MST. MEHFOOZ BEGUM AND OTHERS.

Appellant by	**:**	**Mr. Ghulam Shabbir Akbar, Advocate.**
Respondents by	**:**	**Mr. Adil Aziz Qazi Advocate for Respondent No.1.** **Mr. Muhammad Ishtiaq Raja, Advocate for respondents No.1, 2, 6 to 10, 13 to 15, 17 to 19, 21, 23, 29, 30, 35, 37, 39 to 42, 46, 47, 65, 77, 81, 83, 86 to 88, 97, 98.** **Raja Yasir Shakeel, Advocate for respondents No.43, 45, 49, 50, 52, 62, 63, 66, 78, 80, 96, 98, 100.**
Date of hearing	**:**	**30.04.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Appeal under Section 96 of the Code of Civil Procedure, 1908 **("CPC")**, the Appellant has assailed the Judgment and Decree dated 31.07.2000 **("Impugned Judgment and Decree")** passed by the learned Civil Judge 1st Class, Islamabad **("Trial Court")**, whereby the suit filed by the Respondents/Plaintiffs for Possession through Specific Performance, has been dismissed to the extent of Mst. Mehnaz, Mst. Riffat Perveen, Mst. Mukhtar Begum, Ms. Salma, Mst. Yasmin Akhtar, Mst. Ghulam Sakina, Mst. Zarmina, Ghulam Yasin, Mst. Nafeesa Shaheen, Mst. Abida Begum, Muhammad Nisar Khan, Mst. Deeba Naz, Abdul Rauf, Mst. Rasheeda Begum, Syed Akbar, Iqbal Hussain, Ali Raza, Mst. Qudrat, Abdul Rashid, Muhammad Saddique, Abdul Hameed, Mst. Sughra Begum, Mst. Razia Begum, Liaqat Hussain, Mst. Shahnaz Begum and Muhammad Aslam, whereas the suit to the extent of the remaining Respondents/Plaintiffs has been decreed.

2. The brief facts of the case are that the Respondents/Plaintiffs filed a suit for Declaration, and Possession through Specific Performance against the Appellant/Defendant/CDA before the learned Trial Court, contending therein that they are Affectees of Mouza Badia Qadir Bakhsh, Islamabad, whose properties were acquired by the Appellant/Defendant/CDA. They further alleged that they were

entitled to allotment of residential plots in Islamabad as per the policy of CDA/Appellant, but the Appellant/Defendant/CDA showed reluctance to make such allotments, prompting the Respondents/Plaintiffs to lodge a protest. Ultimately, the Appellant/Defendant/CDA accepted the demand of the Respondents/Plaintiffs through a compromise agreement executed in June 1995 between the Appellant/Defendant/CDA and representatives of the Affectees of Mouza Badia Qadir Bakhsh. According to the compromise agreement, the CDA had already verified the cases of 188 Affectees, including the Respondents/Plaintiffs, whose houses in Village Badia Qadir Bakhsh were demolished. Their names existed in the award list and they had been paid compensation. The demands of the Respondents/Plaintiffs were accepted by the Appellant/Defendant/CDA through different letters and decisions. However, it was contended in the suit that the Appellant/Defendant/CDA failed to perform its obligations under the compromise agreement and did not allot plots despite repeated requests. Hence, the suit was filed before the learned Trial Court. The Appellant/Defendant/CDA appeared before the learned Trial Court and submitted written statement, strongly contesting the contentions of the Respondents/Plaintiffs.

3. From the divergent pleadings of the parties, issues were framed by the Trial Court. In evidence, the Respondents/Plaintiffs produced three witnesses namely Mehboob Ali as PW-1, Qaiser Ali as PW-2 & Arshad Mehmood as PW-3 who recorded their statements. On behalf of the Appellant/Defendant/CDA, Abdul Ghafoor Alvi appeared as DW-1 and got recorded his statement. Both parties produced documentary evidence in support of their respective versions. After recording of evidence and hearing arguments of the learned counsel for the parties, the Impugned Judgment and Decree was passed, whereby the Suit filed by the Respondents/Plaintiffs for Possession through Specific Performance has been dismissed to the extent of Mst. Mehnaz, Mst. Riffat Perveen, Mst. Mukhtar Begum, Ms. Salma, Mst. Yasmin Akhtar, Mst. Ghulam Sakina, Mst. Zarmina, Ghulam Yasin, Mst. Nafeesa Shaheen, Mst. Abida Begum, Muhammad Nisar Khan, Mst. Deeba Naz, Abdul Rauf, Mst. Rasheeda Begum, Syed Akbar, Iqbal Hussain, Ali Raza, Mst. Qudrat, Abdul Rashid, Muhammad Saddique, Abdul Hameed, Mst. Sughra Begum, Mst. Razia Begum, Liaqat Hussain, Mst. Shahnaz Begum and Muhammad Aslam, and decreed to the extent of the remaining

Respondents/Plaintiffs has been decreed. Being aggrieved by the Impugned Judgment and Decree, the Appellant/Defendant/CDA has filed the instant Appeal.

4. The learned counsel for the Appellant/Defendant/CDA argued that the learned Trial Court did not appreciate the relevant provisions of law and facts of the case; that the learned Trial Court ignored the evidence of the Appellant/Defendant/CDA regarding violations of the package deal agreement (Ex.PW/1) by the Affectees/Respondents**,** such as not handing over the possession of the acquired Built-up Property ("**BuP")**, which is *sine qua non* for the grant of rehabilitation benefit, i.e., allotment of the residential plots ; that the learned Trial Court also failed to consider the statements of DWs, made in unequivocal terms, regarding bogus Review Awards; and that it is a well-settled principle of law that a party to a fraud is not to be allowed to benefit from his own fraud. The learned counsel placed reliance on judgments reported as PLD 1962 SC 132**,** 2002 SCJ 500, and PLD 1990 SC 624. The learned counsel further argued that the learned Trial Court did not appreciate the statements of the PWs in their true perspective, drew incorrect inferences therefrom, and misconstrued them against the Appellant/Defendant/CDA; that it was not noticed that there were material contradictions in the statements of PW-1 and PW-3; and that PW-3 deposed that possession of BuP was not given to CDA, and further stated that Ex.PW-3/2 is valid, whereas the remaining documents are dubious; that the learned Trial Court failed to appreciate that even a single affectee/Plaintiff was not examined and in this regard, the mandatory provisions of Articles 117, 118**,** and 119 of the Qanoon-e-Shahadat Order, 1984 were overlooked, and the weakness, if any, in the evidence of the Appellant/Defendant/CDA was made the basis to arrive at the Impugned Judgment and Decree, in derogation of the well-settled principle that the Plaintiff must succeed on the strength of his own case and cannot take advantage of his adversary's weaknesses; that the learned counsel placed reliance on 2008 SCMR 1395, 2011 PSC (SC Pak) 713, and 2007 CLC 39; that the learned Trial Court did not appreciate that although PW-2 spoke to possession of the BuP, he categorically deposed that "possession was fake" and "reviews were absolutely forged since disowned by their authors"; that the Trial Court failed to consider contradictions in the statement of PW-1 (Mahboob Elahi) regarding the number of BuPs/houses in Village Badia Qadir Bakhsh. It was also not considered that possession at G-12 was not handed over and that the green belt between G-11 and G-12 was not handed over either, as deposed

by PW-1; that the documentary evidence was not properly read and appreciated by the learned Trial Court, which resulted in erroneous findings on Issues No. 2, 5, and 9; that the findings on Issues No. 1 and 4 are also incorrect and contrary to facts and law; that it was not appreciated that according to the scrutiny committee's report, 219 persons were found eligible for plot allotment, out of which allotment letters had already been issued to 183 persons, and this fact was deposed by DW-1 and remained unrebutted during cross-examination; that the learned Trial Court, despite relying on this deposition, failed to appreciate that only 36 oustees/Affectees were left entitled for the grant of rehabilitation benefit i.e. allotment of residential plot; that the Trial Court misread Ex-PW-2/1 (Demolition List), as many Respondents/Plaintiffs do not find mention in the said list, hence, the Impugned Judgment and Decree was passed without closely examining and sifting the list; that the learned Trial Court also failed to appreciate that the authority conferred upon PW-3 (Arshad Mehmood son of Mehboob Elahi) by the Respondents/Plaintiffs was also doubtful, as there were material contradictions in his statement in this respect; that the Trial Court failed to appreciate the contents of the package deal (Ex.PW-2/2), especially clauses 2, 3, and 4; that the statement of DW-1 (Abdul Ghafoor Alvi, Deputy Director (Land), CDA) was also ignored, wherein it was categorically deposed that:-

> ایک شق یہ تھی کہ بقایا 412 متاثرین کی مکمل سکروٹنی ہوگی اور ان میں سے جو جائز حقدارپائے گئے ان میں سے 273 کو سیکڑ 11 -آئی میں پلاٹ دیں گے بقایا کو دوسرے سیکٹرزمیں دیں گے ۔ ایک سکروٹنی کمیٹی بنی جس کے مطابق 219 لوگ صحیح حقدار پائے گئے اُن میں سے 183 کو الاٹمنٹ کر دی ہے بقایا کو بھی دستاویزات پوری کرنے کے بعد کر دیں گے۔

That the learned Trial Court omitted to consider the statements of DWs regarding Review Awards, BuP possession, Demolition List, and the number of Affectees etc. as well as the documentary evidence produced by the Appellant/Defendant/CDA was also ignored; that unrebutted portions of the DWs' statements were not deemed true or appreciated; that the learned Trial Court also ignored that the original Demolition List was not available in CDA records, and only a photocopy existed, as deposed by DW-1 and a photostat copy of a public document is inadmissible unless certified to be a true copy by the officer having custody thereof, under Article 87(2) of the Qanun-e-Shahadat Order, 1984; and thus, the Respondents/Plaintiffs were not entitled to allotment of residential plots as determined in the Impugned Judgment and Decree, in light of the facts of the case facts and evidence; that the learned Trial

Court exceeded its jurisdiction in decreeing the suit in favor of the Respondents/Plaintiffs. In view of the foregoing, it is respectfully prayed that this Court may set aside the Impugned Judgment and Decree, in the interest of justice.

5. On the other hand, the learned counsel for the Respondents/Plaintiffs argued that it is an admitted fact that the Respondents/Plaintiffs were owners of properties in Village Badia Qadir Bakhsh, and that the land was acquired by the Appellant/Defendant/CDA. It is also admitted that, upon such acquisition, the oustees/Affectees are compensated through rehabilitation benefits under applicable Land Acquisition Regulations and Rehabilitation Policies; that the dispute between the parties pertains to the BuP owned by the Respondents/Plaintiffs**.** The CDA officials who appeared as Plaintiffs' witnesses, as well as the Deputy Director who testified for the Appellant/Defendant/CDA, admitted that the list of built-up houses in the village (Ex-PW-2/1) is on record and contains 228 persons whose houses were located at the site and after demolition of the houses, the CDA issued demolition certificates to the owners of the said houses; that it is also admitted that the Appellant/Defendant/CDA planned and designed the allotment of plots to oustees of Village Badia Qadir Bakhsh and this decision was approved by the CDA Board, the competent authority for such matters. The Respondents/Plaintiffs produced this document as Ex.PW-2/3 through official witness PW-2 Qaiser Ali; that the agreement between the parties was approved by the CDA Board in its meeting held on 10.06.1995, which is produced in evidence by the Respondents/Plaintiffs through the official witness Qaiser Ali; that the document, whereby the agreement between the parties was approved/confirmed by the CDA Board, is produced in evidence as Ex.PW-2/4; that the Respondents/Plaintiffs discharged their onus regarding the execution and approval of the same by the authority under the law, and their entitlement to plot allotment; that the Appellant/Defendant/CDA, having entered into a lawful agreement with the Respondents/Plaintiffs is bound by its terms, which remain unfulfilled; that after taking possession of the Respondents/Plaintiffs' land had, the CDA allotted the same to others by developing sectors in the area, but had made the Affectees/Respondents/Plaintiffs a rolling stone since four decades; that the learned Trial Court, after careful scrutiny, decreed the suit and paragraph 14 of the Impugned Judgment and Decree reflects the efforts made by the learned Trial Court to sift truth from falsehood; that the learned Trial Court excluded 9 persons due to minor discrepancies in their entitlement and did not allow them the benefit;

that the rest of the issues, onus whereof was upon the Appellant/Defendant/CDA, the witness appearing on behalf of Appellant/Defendant/CDA as DW-1 namely Abdul Ghafoor Alvi, while appearing in witness box had admitted the existence of agreement (package deal), he also admitted that the CDA had issued 98 allotment letters to different persons, he had also admitted that the Respondents/Plaintiffs' names do exist in the award as well as in the list of those houses against which the demolition certificate was issued by the Appellant/Defendant/CDA. He admits that the name of those people exist in document Ex.PW2/6; that the only stance taken by the witness is that, the then DC, CDA had given illegal plots to the people in the area but the Appellant/Defendant/CDA failed to produce any such evidence on record, despite the fact that the entire record was/is in possession of the Appellant/Defendant/CDA; that in this view of the matter Article 129(G) of Qanoon-e-Shahadat Order, 1984 is fully attracted; that such an important evidence is deliberately withheld, because if produced, will go against the Appellant/Defendant/CDA; that during the course of hearing, after post remand proceedings, this Court summoned certain records and it was proved that the Appellant/Defendant/CDA on one hand claims that the review documents were forged documents but at the same time the Appellant/Defendant/CDA filed appeals against these awards before the Commissioner CDA, which were dismissed; that the then DC, CDA was charged with an allegation that he has illegally given the award and his case was handed over to NAB, but that DC, CDA was acquitted by Court of competent jurisdiction. Lastly, the learned counsel prayed for dismissal of instant Appeal with heavy cost.

6. It is pertinent to mention that the instant Regular First Appeal was earlier dismissed by this Court vide order dated 19.06.2013, and the Appellant/Defendant/CDA, being aggrieved, challenged the same before the august Supreme Court of Pakistan. After hearing both sides, the apex Court remanded back the instant appeal vide order dated 14.05.2014 for decision afresh after hearing the parties and further held that the learned High Court has merely affirmed the judgment of the Trial Court without discussing the material relevant for reaching such a conclusion.

7. I have heard the learned counsel for the parties after remand and have also perused the evidence and record with their able assistance.

8. Perusal of the record reveals that the BuPs of the Respondents/Plaintiffs (hereinafter referred to as the "Affectees"), residents of Mouza Badia Qadir Bakhsh, Islamabad, were acquired by the Appellant/Defendant/CDA vide Award dated 26.07.1987 under the provisions of the CDA Ordinance. The Affectees were entitled to compensation as well as allotment of residential plots in Islamabad as per the rehabilitation policies of the Appellant/Defendant/CDA; however, the CDA seemed reluctant to provide residential plots to the Affectees. The definition of "Affectee" under Clause 2(1) of the Islamabad Displaced Persons Rehabilitation Policy, 1984, is hereby reproduced as under:

> *2(1) **"Affectee"** means a person or persons whose agricultural land and/or built-up property is acquired under the CDA Ordinance.*

Moreover, under Clause 4 of the said Policy, certain conditions regarding BuP have been mentioned in Clauses 4(a) and 4(b), and the same are reproduced as hereunder:-

> *(A) Affectees due to acquisition of Built-up Property only — Where only built-up property is acquired from the affectees, residential plots in the Sub Urban Centres would be offered to them as a consideration for their permanent rehabilitation. The basis of such an offer will be a single family unit.*
>
> *(B) Affectees due to acquisition of land or land and built-up property: -*
>
> *1. Where built-up property or land not less than 4 kanals, or land and built-up property is acquired and the acquired area is less than 40 kanals of cultarable land but more than 4 kanals the affectee would qualify for allotment of a residential plot in a Sub Urban Centre.*
> *2. Where land or land and built-up property is acquired and the area acquired is 40 kanals to 100 kanals of cultarable land then the affectees would become entitled to consideration for allotment of one agro unit (approx:20 kanals of agricultural land and a residential plot in an agroville.*
> *3. Where land acquired is more than 140 kanals of cultarable land [with a margin of (--) 5 kanals], the affectee would be considered for the allotment of two agro units and a residential plot in one of the proposed agrovilles.*
> *4. In case of joint family entitlement on the basis of (1) & (3) above, the affectee family would qualify for allotment of corresponding number of agro units and residential plots in agroville and/ or Sub Urban Centre as the case may be.*
> *5. Those affecttees who wish to be covered under the old scheme of obtaining land available in Colony Districts, would be issued eligibility certificates according to new entitlement, i.e. if cultarable land lost in acquisition is 40 kanals or more.*

9. Due to the inaction and various excuses on the part of CDA, the Affectees lodged protests. Ultimately, the Appellant/Defendant/CDA accepted the demands of

the Affectees through a Compromise Agreement executed inter se the parties in June, 1995, wherein the Affectees, besides compensation, were also entitled to the allotment of residential plots in Sector I-11, Islamabad. In view of the Compromise Agreement, a Demolition List was prepared, which was signed by the officers of CDA. It has been observed that the Affectees, in accordance with the terms and conditions of the Compromise Agreement, had duly handed over the possession of their BuPs to the CDA. However, the Appellant/Defendant/CDA till date has failed to allot residential plots to the Affectees in Sector I-11, Islamabad. It is to be noted herein that as the Appellant/Defendant/CDA had paid compensation to the Affectees, therefore, the main grievance is related to allotment of residential plots in Sector I-11, Islamabad as per the terms and conditions of the Compromise Agreement/Package Deal.

10. The Appellant/Defendant/CDA has contended that the learned Trial Court has ignored the evidence of the Appellant/Defendant/CDA regarding violations of the Package Deal Agreement (Ex.PW/1) by the Affectees, such as not handing over the possession of the acquired BuPs, which is an essential requirement for the grant of rehabilitation benefit, i.e., allotment of residential plots. The assertion that the allotment of residential plots can be granted only upon handing over possession of the acquired land to the CDA is misconceived and contrary to the applicable legal framework. Under Section 32 of the Capital Development Authority Ordinance, 1960 (hereinafter referred to as the "Ordinance, 1960"), the acquired land vests in the Authority immediately upon the making of the Award under Section 28, free from all encumbrances. Thereafter, it is within the power of the Deputy Commissioner to enter upon and take possession of the land after giving reasonable notice to the occupiers. For ready reference, Section 32 of the Ordinance, 1960 is reproduced herein below:-

> **"32. Vesting of land in the Authority.** — *Immediately on the making of the award under section 28, the land shall vest in the Authority free from all encumbrances and thereupon the Deputy Commissioner may, after giving reasonable notice to the occupier, enter upon and take possession of the same."*

Furthermore, Regulation 21 of the CDA Land Acquisition and Disposal Regulations, 1961 reinforces this statutory position by stipulating that upon issuance of an Award, the land shall vest in CDA as contemplated under Section 32, and the Deputy Commissioner may take possession thereof. There exists no provision in either the

Ordinance, Regulations, or Policies which renders handing over possession of the acquired BuPs by the Affectees to the CDA to be an essential requirement for the allotment of residential plots. Therefore, handing over the possession of the acquired BuPs is not *sine qua non* for the grant of allotment of residential plots to the Affectees. Rather, the Affectees have to be allotted residential plots timely so as to enable them to settle down immediately. However, the matter qua allotment of residential plots to the Affectees remains pending since 26.07.1987, which approximately amounts to four decades.

11. In this regard, in a judgment cited as *Ministry of Interior Employees Cooperative Housing Society versus Capital Development Authority and others* **(2025 CLC 75 Islamabad)**, this Court dismissed the contention that handing over possession of the acquired land to CDA is an essential requirement for receiving compensation. The relevant portion is reproduced herein below:-

> *"24. During the course of the arguments, learned counsel for CDA tried to justify the non-payment of compensation to MIECHS by stating that possession of the acquired land had not been given to CDA. Additionally, in paragraph 5 of CDA's written submissions, it is stated that CDA is "committed and ready to discharge its obligation mentioned in the award and CDA Ordinance 1960 and clear the remaining compensation as soon as the petitioner society hands over possession of the acquired land." My understanding of this submission is that compensation would be paid to MIECHS once it hands over possession of the acquired land to CDA. The said submission is baseless and not in consonance with the law. To begin with, how is MIECHS expected to obtain possession of land, the ownership whereof presently vests in CDA. Unlike Section 16 of the Land Acquisition Act, 1894 by virtue of which the acquired land vests in the government upon possession being taken of such land, Section 32 of the CDA Ordinance provides for the vesting of the acquired land in CDA on making of the award. Taking over possession of the acquired land is within the power of CDA. Section 32 of the CDA Ordinance empowers the Deputy Commission to enter upon and take over possession of the acquired land.*
>
> *26. Regulation 21 of the 1961 Regulations provides that once an award is given, the land shall vest in CDA as contemplated in Section 32 of CDA Ordinance and "the Deputy Commissioner may take possession thereof" irrespective of the fact that an appeal has been filed against the award or the owners have not been paid compensation or whether they have accepted the compensation under protest. Neither do the provisions of the CDA Ordinance nor the 1961 Regulations make the payment of compensation contingent on taking over possession of the acquired land by CDA."*

Similarly, in the instant case, neither the compensation nor the allotment of rehabilitation benefits to the Affectees under the CDA policies were ever contingent

on taking over possession of the acquired BuPs. Thus, the premise advanced by the Appellant/CDA is wholly unsupported by law.

12. Moreover, the Appellant/Defendant/CDA has further contended that the learned Trial Court has failed to consider the Review Awards as bogus. According to the Appellant/Defendant/CDA, hundreds of Affectees got their names included in the list of Affectees vide different Review Awards from 1987 to 1990, which were found to be bogus during investigation/inquiry made by its officers and the FIA. Therefore, the Affectees are not entitled to the allotment of plots as prayed for.

13. Perusal of the record shows that 211 review petitions were filed, out of which 189 were dismissed on the ground that constructions were made after the original Award dated 26.07.1987. Thus, the Award was issued in favour of 22 persons after scrutiny by the Deputy Commissioner, CDA. The learned Trial Court has correctly appreciated the facts of the case and the evidence produced therein. Neither any inquiry report declaring the Review Awards as bogus has been produced by the Appellant/Defendant/CDA, nor is there any document available which shows that the Deputy Commissioner, CDA had disowned the issuance of the Review Awards. Therefore, the authenticity of the Review Awards remains untainted.

14. Furthermore, it is an admitted position that compensation has already been paid to the Affectees with regard to acquisition of BuPs acquired by CDA, on the basis of Review Awards and the Demolition List, which still exist on the file of the CDA. Abdul Ghafoor Alvi, Deputy Director (Land), CDA, as DW-1, has admitted that compensation of the properties acquired by the CDA has been paid to all the Affectees, which is evident from Ex.PW2/6 (Kabzul Wasool), Ex.PW2/1 (Demolition List), and Ex.PW3/2 to Ex.PW3/18 (Review Awards). The Demolition List as well as the Kabzul Wasool have been admitted as correct by the only witness of the Appellant/Defendant/CDA, i.e., DW-1.

15. The record further reveals that the Respondents/Plaintiffs at serial No. 13, 25, 29, 30, 40, 42, 46 & 69 have already been allotted plots on the basis of the same Demolition List, Package Deal, and Review Awards. Therefore, it is astounding to note herein that the Appellant/Defendant/CDA had allotted plots to certain Affectees on the basis of the same documents, which are now not being accepted as valid in the case of other similarly placed Affectees. The actions of the

Appellant/Defendant/CDA reflect arbitrary use of authority and blatant discrimination, which are in clear violation of Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. The learned Trial Court, therefore, has rightly concluded that the CDA cannot adopt a policy of pick and choose based on its own whims and fancies. The Compromise Agreement entered into between the parties was duly approved by the CDA Board in its meeting held on 10.06.1995, which has been produced in evidence as Ex-PW-2/4. Therefore, the CDA is bound by the terms and conditions of the Package Deal agreed upon by the parties. Reliance in this regard is placed on *Noman Ahmed and 14 others Versus Capital Development Authority through Chairman and another* **(PLD 2021 Islamabad 75)**, wherein the Court held as under:-

> *"A process of meaningful negotiations ought to be a pre-condition for resorting to the use of the powers vested under the relevant law. If the negotiation process fails then it is the duty of the public functionaries to proceed fairly, justly, adopting transparent procedures and having regard to the rights of the affected citizens.* ***However, if the negotiations are successful and the amicable settlement has been approved by the executing agency then it would be binding on the parties, particularly the agent of the State, because of its superior power to exert influence. In the case in hand it was appreciable on the part of the FGEHA to have earnestly made an effort to reach a negotiated settlement. It was successful and the terms were approved by the competent forums. The FGEHA now cannot avoid the concluded and approved commitments and doing so would be a breach of fiduciary duty towards the affected citizens because it is exercising the power of the State.****"* (Emphasis added)

16. It is pertinent to mention here that the execution of the Compromise Agreement (Ex. P-1) between the parties is not disputed, whereby the entitlement of 188 verified Affectees (including the present Respondents/Plaintiffs) was admitted. It is also admitted that the said agreement was approved by the competent authority, i.e., the CDA Board, and that partial implementation had commenced through issuance of allotment letters to some Affectees. The denial of the same benefit to the remaining similarly placed verified Affectees offends the fundamental principles of equality and fair treatment. The core issue before this Court is whether the Appellant/Defendant/CDA, having entered into a binding Compromise Agreement and having partially implemented it, can now avoid its obligations towards the remaining Affectees. The Appellant/Defendant/CDA's prolonged failure to fulfill the terms of the Compromise Agreement reflects poor governance and constitutes a breach of fiduciary duty owed by public authorities to citizens, especially vulnerable

and displaced individuals. Such selective compliance perpetuates structural injustice and contravenes the principles of good governance, rule of law, and equal protection. Once an agreement is executed with the approval of the competent authority, partially acted upon, and not lawfully rescinded, the Appellant/Defendant/CDA cannot retreat from its obligations merely by questioning its own prior decisions. Though not expressly invoked, the doctrine of *legitimate expectation* is clearly attracted in the present case. Reliance is placed on *National Database and Registration Authority (NADRA) through Chairman, Islamabad and others Versus Jawad Khan and 2 others* **(2023 SCMR 1381)**, wherein the august Supreme Court elaborated the doctrine of legitimate expectation in detail as follows:-

> *"The doctrine of legitimate expectation connotes that a person may have a reasonable expectation of being treated in a certain way by administrative authorities owing to some uniform practice or an explicit promise made by the concerned authority. In fact, a legitimate expectation ascends in consequence of a promise, assurance, practice or policy made, adopted or announced by or on behalf of government or a public authority. When such a legitimate expectation is obliterated, it affords a locus standi to challenge the administrative action and even, in the absence of a substantive right, a legitimate expectation may allow an individual to seek judicial review of a wrongdoing; and in deciding whether the expectation was legitimate or not, the Court may consider that the decision of the public authority has breached a legitimate expectation and, if it is proved, then the Court may annul the decision and direct the concerned authority/person to live up to the legitimate expectation. This doctrine is basically applied as a tool to watch over the actions of administrative authorities and in essence imposes obligations on all public authorities to act fair and square in all matters encompassing legitimate expectation."*

17. The learned Trial Court has rightly held that no credible evidence was brought on record by the Appellant/CDA to challenge the authenticity of the Review Awards or the Demolition List. No inquiry report by the FIA or any competent authority was produced to show that the Review Awards were declared bogus by a court of law. On the contrary, the CDA itself relied on the same documents for earlier allotments, and such selective repudiation is legally impermissible. Reliance in this regard is placed on the case of *Noman Ahmed (supra)*, wherein the Court observed that:-

> *"There could not have been a more classic example of travesty of justice and violation of constitutional guaranteed rights because, while about eleven thousand affected citizens were waiting for the allotment of plots, some since 1968, more than twenty thousand plots were allotted at throw away prices to employees and officials of the CDA. including its Chairmen and members of the Board. They created plots for themselves in sought after*

> *sectors but denied the vested acknowledged rights of citizens who were deprived of their private properties. The abuse of the power of eminent domain stands established. Records are missing and innocent property owners were made to suffer the travails of criminal trials for no fault of their own. The public functionaries, who had created opportunities for corruption through abuse of the power of eminent domain by adopting unclear and non-transparent processes, have caused loss and damage to citizens whose vested rights are admitted and acknowledged. Most of them are poor and belong to the weaker segments of the society. They have not been treated as equal citizens by the agents of the State i.e. the public functionaries."*

Furthermore, the argument that the Respondents/Plaintiffs did not appear as witnesses is immaterial in the present circumstances, as a collective agreement was executed and a representative duly authorized through a power of attorney appeared on their behalf. The validity of such authorization was never challenged by the Appellant/Defendant/CDA. Additionally, the Appellant's own witness corroborated key aspects of the Respondents/Plaintiffs' case. The learned Trial Court, after carefully scrutinizing the evidence, excluded 26 Affectees whose claims could not be independently verified.

18. In light of the foregoing discussion, I find no illegality or infirmity in the Impugned Judgment and Decree dated 31.07.2000. The learned Trial Court has rightly decreed the suit in favour of Respondents/Plaintiffs whose entitlement was established, and dismissed it to the extent of those whose claims were either unsubstantiated or already satisfied. As such the Impugned Judgment and Decree is sound in law, supported by evidence, and consistent with constitutional principles.

19. Consequently, the Appeal is hereby **dismissed** and the Impugned Judgment and Decree dated 31.07.2000 passed by the learned Trial Court is upheld.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____ day of June 2025.

JUDGE

Sajid/--