THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
CHRIS BUILDERS
(Rep herein by Mr. Christopher Roucou and Mr. Nigel Roucou)

CPA.11.099

Complainant – Mrs. Rina Yocette
Respondent – Chris Builders

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mr. Philippe Chong-Seng – Commissioner
Mrs. Jenna Thelermont – Commissioner
Mr. Victor Pool

For the Complainant
Ms. Emily Mousbe – Legal Officer (FTC)
Mr. Gioven Yocette

For the Respondent
Mr. Christopher Roucou
Mr. Nigel Roucou

RULING

[1]The Fair Trading Commission received on the 16th of May, 2011 a letter from Mrs. Rina Yocette, now the complainant (See Exhibit 1), informing Chris Builders of her discontent with the quality of work she received from the registered company holding a Class II Building Contractor License (See Exhibits 2, 3 and 4) while undertaking renovation works on her dwelling house at Caryole Estate on parcel

S3059. Mrs. Yocette was advised to fill out a complaint form which she submitted on the 10th of August, 2011 (See Exhibit 5). As per other documentary evidence provided by the complainant during the investigation process it came to light that it had been agreed that the respondent would conduct renovation works on the complainant's dwelling house quoted at SR. 83, 200/- (See Exhibit 6). Payments were made by the complainant to the respondent towards the completion of such works (See Exhibits 7, 8 and 9). The complainant claims that soon after paying the final instalment she started encountering problems derived from the renovation works and had to incur extra costs to repair as the respondent's works were substandard. These included having to replace door locks, instructing another plumber to replace ball valve in water tank due to consistent leaking of water in the ceiling, instructing another plumber to unblock the manhole in outlet of toilet due to water back flowing causing a foul smell to emit from the vent pipe. The Commission received on the 24th of May, 2011 a statement from one Jemmy Adam stating that he was paid SR.1, 500/- by the complainant to conduct the latter (See Exhibit 10). The complainant provided her own estimations of the extra costs she has incurred and further expenses she claims she will incur as a result of the respondent's bad workmanship (See Exhibit 17). Based on those estimations the complainant is therefore requesting a refund in the sum of SR. 60, 454. 70/-.

[2]As part of the investigation process a site visit of the complainant's premises was conducted by officers of the Commission on 14th June, 2011 and their findings are outlined in Exhibit 12. The officers observed that the slab over the manhole was not sealed; all PVC pipes were above ground and partly covered with coral fill; kitchen and living room door locks were not working; cracks in the dining and living room walls had been filled but not painted; floor tiles in the bedroom had not been properly laid. The officers also noticed a space between the bathtub and the wall and that there was on support under the bathtub on the right edge.

[3]The respondent was called in for a meeting to discuss these issues on the 19th of August, 2011. Mr. Nigel Roucou and Mr. Christopher Roucou attended. Messrs Roucou denied the complainant's allegations and claimed that it did not make sense for him to save SR.150/- and install a rusty ball valve when he was being paid SR.85, 000/- by the complainant, that the ball valve was bought new with the fibre glass water tank and that he had the receipt to support this statement. This receipt was never submitted to the Commission. They added that all door locks were installed new and that when they left the site the manhole was working properly. The respondent added that they painted fascia boards and repaired two doors at the

cost of SR.3, 000/- which they were never paid. The complainant did not dispute this outstanding payment instead she claimed that she is not willing to pay due to the low standard of works carried out by the respondent.

[4]Despite lengthy mediation the Commission was unable to reach a satisfactory settlement between the parties. It was therefore deemed necessary for the case to be heard and determined by the Board of Commissioners.

[5]All parties were represented at the hearing of the matter held on Wednesday 13th November, 2013. Ms. Chantale Barrallon, Director for Legal Affair (FTC) presented the case on behalf of the complainant, Mrs. Rina Yocette who was absent but being represented by her husbad, Mr. Gioven Yocette (See Exhibit 1b). Ms. Barallon put forth the contravention of Section 40(1)(b) which states in part that when a supplier undertakes to perform any service for or on behalf of a consumer, the supplier shall perform the service in a manner and of a quality that persons are generally entitled to expect, hence requesting for a part refund in accordance with Section 40(2). Further, Mr. Yocette testified on behalf of Mrs. Rina Yocette and he outlined the issues mentioned previously and stressed that he and his wife has suffered both financially and morally as a result of the situation, incurring extra costs and mental stress having to carry out the same works twice when this should have been completed properly by the respondent. He stated that his wife is still repaying loans acquired for the renovation works. The complainant prayed for a reasonable refund of SR. 60, 454. 70/-, having regards to the extent of failure by the respondent.

[6]The respondent, Chris Builders, was duly represented again by Messrs Nigel and Christopher Roucou and they clearly showed their disapproval with regards to issues surrounding this case. They claimed that the house had already been badly constructed and was in a bad hygiene state. That they had originally refused to undertake the said renovation works but their friend, Mr. Yocette had convinced them to do so. That Mrs. Yocette had prepared a check list and she was satisfied that all works were completed as required before final payment was made. That the complainant encountered these problems as a result of misuse and not of bad workmanship. The hearing was adjourned with the respondent disputing all elements of the case brought against them and claimed that they owed the complainant nothing.

[7]The Board of Commissioners deliberated on the matter. It is clear that the emotions between the parties are high with both sides asserting to be right. The Board of Commissioners has studied the evidence before it and finds that the complainant's claim is highly exaggerated and most of the issues in question is not properly supported by evidence or is irrelevant to the case at hand. Nonetheless it is evident that the complainant's case has some substance. With that being said the Board shall allow the complainant's claim for SR. 1, 500/- which was the cost of repairing the water tank and replacing the ball valve. The Board will also allow the complainant's claim of SR. 1, 500/- being the cost of unblocking the toilet and repairing the manhole (See Exhibits 10, 11 and 17). With regards to the complainant's remaining request for the refund of SR. 57, 454. 70/- the Board is uncomfortable with the evidence produced to satisfactorily support this claim and therefore it cannot be allowed. The same is hereby dismissed.

[8]For clarity the respondent, Chris Builders, is found to be in contravention of Section 40(1) of the Consumer Protection Act, 2010 by not performing a service in a manner and quality that persons are generally entitled to expect. Pursuant to Section 40(2) the respondent is ordered to refund to the complainant, Mrs. Rina Yocette the sum of SR. 3, 000/-. Given that both parties have admitted to the existence of an outstanding balance of SR. 3, 000/- owed by the complainant to the respondent for works done that balance shall off set the required refund.

[9]The parties are free to appeal against this ruling (See Section 44 of the Fair Trading Commission Act, 2009).

[10]We rule accordingly.

Pronounced by us on the ....21st..... day of January, 2014.

Mr. Colin Jean-Louis
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner

Mr. Victor Pool
Commissioner