

(1994) 06 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

A.A. PANGE

APPELLANT

Vs

PALLAVI CONSTRUCTIONS

RESPONDENT

Date of Decision : 07-06-1994

Acts Referred:

Citation : 1996 1 CPJ 102

Hon'ble Judges : G.G.Loney , Elipe Dharma Rao J.

Final Decision : Complaint dismissed

Judgement

1. IN this complaint, the complainant alleged deficiency in the service of the opposite party as builder. The complainant alleged that O.Ps. 1, 3, 7 and 11 are the registered partnership-firms engaged in the business of building and constructions. The aforesaid firms are floated by opposite party Nos. 2 and 5. The opposite party No. 6 is the father of O.P. No. 2. The O.P. No. 9 is the mother of O.P. No. 2. O.P. No. 4 is the brother of O.P. No. 5 and O.P. No. 5 is the wife of Chandrakant Chavan, a Government servant in the Rationing Office. O.P. No. 8 is the brother-in-law of O.P. No. 5 and O.P. No. 12 is the brother of O.P. No. 2-wife. The complainant alleged that he booked a flat with O.P. No. 2 for a total consideration of Rs. 1,40,000/- on 14.1.84 and paid Rs. 5000/- towards the part payment to O.P. No. 2. As a proprietor of O.P. No. 1. It is further alleged that in June, 1984 he was told by O.P. No. 2 that their earlier firm was abandoned and was asked to make the payment from O.P. No. 3 and accordingly on 28.1.85, he paid Rs. 35000/- to O.P. No. 2. There are receipts of having paid Rs. 5000/- and Rs. 35000/- mentioned above. The complainant on 25.2.85 paid further Rs. 15000/- to O.P. No. 2 for which there is a receipt. The complainant alleged that on 28.2.89 he paid Rs. 10,000/- to O.P. No. 2 and there is also receipt. The complainant further alleged that the complainant obtained a loan from his employer for payment to O.P. No. 2 for purposes of the flat. However, it is further agreed that the price of the flat for which the payment was made on 28.2.89 to O.P. No. 2 were bogus. It is further alleged that the said land was acquired by the Bombay Housing and Area Development Board and, therefore, did not have the valid title to the proposed construction which was being promised to the

complainant. The complainant, therefore, made several allegations against the opposite party as to how he has been cheated in this transaction and claimed Rs. 4,00,000/- towards the compensation. The complaint was filed on 9.2.93. The O.P. filed the written statement and inter alia objected to the maintainability of this complaint as a consumer dispute. It is also stated that the points involved in this matter cannot be decided on the basis of documentary evidence except after recording oral evidence and after consideration of documents and, therefore, submitted to refer the dispute to the Civil Court. We have given our anxious considerations to the rival contentions made by both the parties. We find that firstly the transaction is very old inasmuch as the first transaction took place on 14.1.1984. The complainant alleged the second transaction was on 28.1.85. It is also alleged that further amounts were paid on 25.2.85, 28.2.89 which was the last payment. The complaint being filed in the year 1993 is obviously appears to be barred by limitation. However, we do not want to express any opinion as regards the point of limitation since in our considered view this dispute involves in very complicated question of law as regards the title of the land and the contractual obligation arising out of the multiple agreements. Furthermore there is allegation of having paid Rs. 35000/- in cash to the opposite party No. 2 on 14.1.1985 and 22.1.1985 for which there is no receipt. It, therefore, entails a detailed and elaborate evidence. Considering the totality of the circumstances we decline to adjudicate the consumer dispute for the aforesaid reasons and referred the complainant to approach the Civil Court if so advised. Complaint dismissed.