

(2012) 07 NCDRC CK 0135

In the National Consumer Disputes Redressal Commission

Adarsh Mira Leekha W/O Sh Sant Parkash	APPELLANT
Vs	
Haryana Urban Development Authority, Chief Administrator	RESPONDENT

Date of Decision : 10-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 343 : 2012 3 CPJ 387

Hon'ble Judges : Anupam Dasgupta , Suresh Chandra J.

Advocate : Madhurendra Kumar

Judgement

1. DELAY of four days in filing this revision petition is condoned.
2. THE original complainant has filed this revision petition. She was allotted plot No.1478 in Sector 24 at Panipat vide allotment letter No.4585 dated 14.7.2000. She deposited Rs.80,461/- as 10% earnest money along with her application for allotment of plot. Thereafter, she was asked to deposit 15% of the consideration amount within 30 days from the date of issuance of the allotment letter but she did not deposit the said amount and for that reason allotment of the plot was cancelled and 10% earnest money was forfeited vide letter bearing memo no.3294 dated 30.3.2001. However, she filed the present complaint bearing no.171 on 14.6.2005 before the District Forum alleging the cancellation of allotment as deficiency in service on the part of OPs, who are respondents herein, saying that she had not deposited 15% money because there was no development in the area where the plot was situated. The complainant/petitioner, therefore, sought direction from the District Forum to the OPs to restore the allotment of the plot along with compensation. The OPs resisted the complaint with the averments that since the complainant had failed to deposit 15% of the consideration amount within 30 days from the date of issuance of the allotment letter, the allotment of the plot had rightly been cancelled and the earnest money forfeited. Denying any deficiency in service, they prayed for dismissal of the complaint. The District Forum, Panchkula vide its order dated 26.9.2005 accepted the complaint by granting the following relief:- "...we accept the present complaint and direct the respondents to allot any of the plot, out of the

plot Nos.867,868,870 and 886 to the petitioner as an alternative plot to the petitioner, in lieu of original plot No.148, Sector-24, HUDA, Panipat by charging from the petitioner, the interest, penalties etc. as admissible under the HUDA policy. If the alternative plot is much or less in area then the amount should be charged for the same in the manner mentioned above. It is made clear that the petitioner shall not be entitled to any interest on the amount of earnest money deposited by her earlier. The compliance of this order shall be made by the respondents within a period of thirty days from the date of receipt of copy of this order."

3. AGGRIEVED by the aforesaid order of the District Forum, the OPs filed an appeal before the Haryana State Consumer Disputes Redressal Commission, Panchkula ("State Commission" for short) which vide its order dated 8.12.2010 set aside the order of the District Forum and allowed the appeal. The petitioner has now filed this revision petition challenging the order of the State Commission.

4. WE have heard Mr. Madhurendra Kumar, Advocate for the petitioner and perused the record placed before us by the petitioner. It is seen from the impugned order that the State Commission found that the complaint of the petitioner before the District Forum was filed after more than four years and hence it was barred by limitation prescribed under section 24A of the Consumer Protection Act, 1986. Since this important aspect was not considered by the District Forum while deciding the complaint, the State Commission following the law settled by the Apex Court in the case of State Bank of India Vs. B.S. Agricultural Industries [(2009) CTJ 481 (SC)] set aside the order of the District Forum and allowed the appeal and dismissed the complaint. The State Commission has recorded the following reasons in support of the impugned order:- "At the very outset the question for consideration before is whether the complaint filed by the complainant before the District Forum was within limitation for seeking relief under the Consumer Protection Act. It is admitted case of the parties that the allotment of the plot was cancelled by the Opposite Parties vide letter dated 30.3.2001 due to non-deposit of 15% of the consideration amount, in view of terms and conditions of the allotment letter, whereas the present complaint was filed on 14.6.2005 i.e. more than four years and three months. A period of two years has been prescribed under Section 24A of the Consumer Protection Act, 1986 (as amended upto date) for seeking any relief. Thus, in view of the above position the present complaint was hopelessly barred by time and was not entertainable. But this aspect has not been considered by the District Forum while deciding the complaint and as such the impugned order is not sustainable in the eyes of law."

5. THE view taken by the State Commission is in line with the law settled by the Apex Court. In spite of several opportunities given, learned counsel for the petitioner has not placed any material before us to demonstrate that the complaint was within time. During the course of hearing on admission, it has been fairly admitted by learned counsel that in the instant case, the petitioner

neither gave any intimation in regard to the acceptance of the allotment of the plot nor deposited 15% amount. In view of this aspect also, there was violation of condition No.4 of the allotment which would result in cancellation of the allotment and forfeiture of the earnest money. The OPs, therefore, could not be held liable for any deficiency in service in canceling the allotment. In any case, since the complaint of the petitioner was hopelessly barred by limitation, it could not have been entertained by the District Forum. The State Commission, therefore, rightly set aside the order of the District Forum and dismissed the complaint while accepting the appeal of the respondents. We do not see any reason to interfere with the order of the State Commission. The revision petition, therefore, stands dismissed at the threshold with no order as to costs.