(2015) 04 NCDRC CK 0068

In the National Consumer Disputes Redressal Commission

Anamika Mitra APPELLANT

Vs

STATE BANK OF INDIA RESPONDENT

Date of Decision : 10-04-2015

Acts Referred:

Citation : 2015 2 CPR 457

Hon'ble Judges : D.K.JAIN , VINAY KUMAR , M.SHREESHA J.

Final Decision : Petition disposed

Judgement

1. THE short question for consideration in this Revision Petition is as to whether on liquidation of House Building Loan against Account No.11712525485, by the borrower, Late Smt.Namita Bhowmick, her Legal Heir, the Petitioner in this Revision Petition, is entitled to get back the original Title Deeds pertaining to Flat No.B/4, "Arpan Apartment", P.O. Bidhargarh, P.S. Rabindra Nagar, Kolkata 700066, which were deposited as security with the Respondent Bank''s branch at Pandhur, Rabindra Nagar, Kolkata.

2. THE objection of the Respondent Bank to the release of the said document was that late Smt.Namita Bhowmick, who had mortgaged the said property as security for the housing loan, had entered into an agreement to sell the same property with one Mohitosh Dasgupta, without informing the concerned branch of the Bank and without liquidating the Housing Loan availed by her. Further the said Mohitosh Dasgupta had also raised a loan from the Bank''s branch at Baliganj Station Road by depositing a copy of the same Title Deed along with original Registration Receipt issued by the Sub Registrar.

3. WE have heard learned counsel for the parties. During the course of hearing, learned counsel appearing for the Respondent Bank has pointed out that on failure of the said Mohitosh Dasgupta to liquidate the Housing Loan, raised by him from the Baliganj Railway Station Branch, the said Branch has already initiated proceedings against him under THE Securitization and Reconstruction Of Financial Assets and Enforcement of Security Interest Act, 2002, by issuing notices under Section 13(2) and 13(4) of the said Act. Be that as it may, as

noted above, the question for consideration is whether or not, on issue of a certificate on 30.10.2009 (Pg.28) wherein it is certified by the Bank that on receipt of a sum of Rs.1,29,050/ - from Shri Deepak Chakraborty and credit of the said amount to the afore -stated Housing Loan in the name of Smt. Namita Bhowmick, the said Housing Loan Account was closed and fully liquidated, the said Branch was justified in refusing to return the original Title Deeds, which were deposited by the loanee as security against the said Housing Loan Account on the ground that its another Branch has advanced loan to a third party on the basis of copies of the Title Deeds in question?

4. IN our view, in light of the said certificate, clearly certifying that the Housing Loan Account, against which the original Title Deeds had been deposited, had been fully liquidated and closed, the Bank could not retain the original Title Deeds on the afore -stated ground. The concerned Branch''s loan having been liquidated, it was under an obligation to return the documents obtained from the party, who had deposited the same as security for raising the loan.

5. ACCORDINGLY , we direct that the original Title Deeds of the property in question shall be returned by the Bank''s Panchur Rabindra Nagar Branch to the Legal Heir of Smt.Namita Bhowmick on her satisfying the Branch that she is the sole Legal Heir of late Smt.Namita Bhowmick, as is being claimed by her. We further clarify that in so far as the proceedings initiated by the Baliganj Railway Station Road Branch of the Bank against Mohitosh Dasgupta is concerned, this order will have no bearing and it will be open to the Bank to pursue the said proceedings in accordance with law. The Revision Petition stands disposed of in the above terms.