
(2002) 01 NCDRC CK 0007

In the National Consumer Disputes Redressal Commission

ANSHUMALI ARORA AND RAMESH GUPTAS

APPELLANT

Vs

AAROHI BUILDERS (P) LTD.

RESPONDENT

Date of Decision : 24-01-2002

Acts Referred:

Citation : 2002 0 ACJ 483 : 2002 0 NCDRC 75 : 2002 2 CLT 668 : 2002 2 CPR 36 : 2002 3 CPJ 49

Hon'ble Judges : B.K.TAIMNI , D.P.WADHWA , J.K.MEHRA , RAJYALAKSHMI RAO J.

Advocate : VIPLAV SHARMA

Judgement

1. COMPLAINANTS are the petitioners before us. Their complaint before the District Forum was that they had booked a shop on 16.8.1993 measuring 138 sq.ft. @ Rs. 230/- per sq.ft. totalling Rs. 31,740/- They made all the payments yet they were deprived of possession of the shop. On notice being issued by the District Forum, opposite party-respondent took the stand that complainants-petitioners had not made the payments of instalments in time and moreover entire amount had not been paid. District Forum found that full payment had been made and while allowing the complaint directed that possession of the shop in question (LGF-29, Block-2) be handed over to the petitioners. Respondent was also required to pay interest @ 18% per annum on the amount of Rs. 31,740/- w.e.f. 1.12.1985 and on the amount of Rs. 3,500/- and Rs. 8,111/- w.e.f. 1.1.1986 and 1.4.1988 respectively, till actual possession of the shop was given to the petitioners. District Forum further awarded compensation of Rs. 2,000/- and Rs. 500/- as cost.

2. IT was the respondent who went in appeal to the State Commission. During the course of argument it was submitted that the shop which had been allotted to the petitioners had been sold by the respondent to one Vikas Kumar on payment of Rs. 55,098/- and letter of possession had already been issued to him. No such plea was taken in the grounds of appeal. No further particulars were given as to when agreement with Vikas Kumar had been entered into and

when letter of possession was given, yet acting on the statements. State Commission modified the order of the District Forum and directed that instead of petitioners getting possession of the shop, they shall be entitled to the entire amount paid by them and also Rs. 10,000 as damages. Respondent was also directed to pay Rs. 1,000/- as costs to the complainants. Now it is the complainants-petitioners who are aggrieved and have come to this Commission. We, however, do not think that State Commission took correct view of the matter. There was no justification to modify the order of the District Forum in the absence of any grounds of appeal having been taken that shop in question had been sold away by the respondent to a third person. This was also not the stand of the respondent before the District Forum. State Commission by the impugned order has put its stamp of approval on a wrongful act committed by the respondent. This order of the State Commission, therefore, cannot stand. We would therefore allow this petition, set aside the order of the State Commission and we restore that of the District Forum. Petitioners would be entitled to costs which we assess at Rs. 2,000/-. Petitioners shall also be entitled to have the possession of the shop and other steps taken in terms of the order of the District Forum by initiating proceedings under Sections 25 and 27 of the Consumer Protection Act, 1986.