
(2014) 01 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

Blood Donors Cooperative House Building First Society Ltd. APPELLANT
Vs
Ashwani Kumar Munjal RESPONDENT

Date of Decision : 15-01-2014

Acts Referred:

Citation : 2014 0 NCDRC 61 : 2014 1 CPJ 367

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Advocate : ASEEM MEHROTRA , RAJAN LOHAN , RACHNA JOSHI ISSAR ,
SHUBHAM BHALLA

Judgement

1. MR . Ashwini Kumar Munjal , the complainant was a member of the Blood Donors Cooperative House Building First Society Ltd. in the year 1987 and his name was at Sr.No.17 in the final list prepared on 30/06/1988 He also deposited a sum of Rs.9,500/ - and Rs.32,000/ - as per the demand made by the OP -1 and received allotment letter on 20/04/2000 from OP -1 and subsequently also deposited a sum of Rs.60,502/ - being his share of the price of the land. However, in 2003 complainant came to know that his name was removed from the list of the members. Thereafter, complainant moved a petition before Registrar, Cooperative Societies (in short RCS) and prayed for allotment of flat in question to him. The said petition was allowed on 12.02.2008 and directed to allot flat of "B " Category to the Complainant on his depositing the remaining cost of the flat in question. The OP -1 Society demanded a sum of Rs.21,34,000/ - being the price of the flat, accordingly, complainant deposited money vide letter dated 25.07.2008 after raising loan from the Bank. Therefore, removing his name from first list and demanding an additional sum of Rs.4, 10,727/ - as towards interest to be arbitrary and unfair, the Complainant filed a complaint before the District Consumer Disputes Redressal Forum(in short, "District Forum "), Chandigarh.

2. THE District Forum allowed the complaint and directed the OP -1 to refund sum of Rs.410727/ - along with interest @ 9%, Rs.50,000/ - for mental agony and Rs.10000/ - towards cost of litigation. Aggrieved by the order of District

Forum, OP -1 preferred an appeal before State Consumer Disputes Redressal Commission (in short, "State Commission ") Chandigarh. The State Commission after hearing the parties and perusal of evidence on record dismissed the appeal.

3. HENCE , the OP -1 filed this revision.

4. WE have heard the Counsel of the parties. The main controversy swirls around the issue in regards the charging of interest by OP 1 - the Society for the period of deprivation i.e. the Complainant was deprived of the allotment letter and the possession of the flat in question. The counsel for OP -1 vehemently argued and denied that, there was unreasonable delay in delivering the possession of flat, and OP -1 has complied with all requirements and formalities which have been laid down by Registrar , Co -operative Societies, UT, Chandigarh. The OP -1 also contended that as per guidelines and rules, the interest was charged from the Complainant, therefore the complainant was stopped from claiming the refund of interest.

5. WE have perused the evidence of both the parties and the letters written by the Complainant to the OP -1. It is clearly evident form the letter dated 25.07.2008 of complainant written to the President of OP Society, the relevant text is as follows: "" with due reference, I hereby deposit a Demand Draft No. 929896 dated 25.7.2008 of Rs.21,34,000/- (Rs. Twenty One Lakh thirty four thousand only) in favour of Blood Donorts Cooperative H/B (First) Society, Sector 50D, Chandigarh payable at Syndicate Bank, Sector -11, Panchkula in terms of order made by ARCS, Chandigarh on 12.02.2008 in case No. 11 of 2006 titled Ashwani Kumar Munjal Vs. Blood Donors Cooperative H/B (First) Ltd. and others. However, the payment of Rs.21.34 lakhs is subject to verification of legitimate due payable to the Society by the undersigned. Also, the another letter dated 19.09.2008(Annexure P -39), shows that the complainant raised protest, that he deposited Rs.21.34 lakhs, without prejudice to his legal rights, to dispute the payment of interest. We are of considered view that, both the letters indicate protest and the interest deposited by the complainant was not voluntarily also. There was no delay in payment also. Therefore, we do not think that the complainant was estopped from claiming refund of interest.

6. WE find that, there was no delay in payment by the complainant. The name of the Complainant was removed from the list of the members in the year 2003 and thereafter, he had to run from pillar to post in order to get allotment of the flat from OP -1 and lastly he got order in his favour from the RCS on vide order dated 12.02.2008 which directed as under: - "" In the light of above facts, the petition is allowed and the Respondent society is directed to allot a "B " category flat to the Petitioner as per his entitlement. The society is entitled to demand the remaining cost of land and construction cost of the flat from the Petitioner and the same will be deposited by the Petitioner within one month of the receipt of the allotment letter of flat from the society. Thereafter, the OP -1 demanded a sum of Rs.18, 18,580/- vide letter dated 28.06.2009 being the price of the flat in question.

The complainant explained his delay as, the OP -1 issued the allotment letter and share certificate to the Complainant on 21.10.2008, thereafter the bank sanctioned the requisite loan amount, which was paid to OP. Therefore, there was no delay, the Registrar, Cooperative Societies had vide its order had specifically mentioned the entitlement of OP -1 to the cost of land and cost of construction of flat only, and not to charge any interest.

7. HENCE , we are of considered view that, the OP -1 has acted arbitrarily and not complied with the order of Registrar, Cooperative Societies by charging Rs.4,10,727/ as an interest for the period from January 2002 to July 2008. It is a deficiency in service and the revision petition has no merit.

8. CONSEQUENTLY , the revision petition is dismissed with no orders as to costs.