

(2017) 01 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

Case No : 3571 of 2016

CENTRAL GOVERNMENT EMPLOYEE WELFARE HOUSING
ORGANISATION THROUGH ITS CHIEF EXECUTIVE OFFICER, &
ANR.

APPELLANT

Vs

LT. COL. T.S. KAHLON

RESPONDENT

Date of Decision : 13-01-2017

Acts Referred:

[Consumer Protection Act, 1986](#), [Section 21\(b\)](#) - Jurisdiction of the National Commission

Citation : (2017) 01 NCDRC CK 0043

Hon'ble Judges : D.K. Jain

Advocate : Diwakar Sinha, Abhijeet Sinha

Judgement

1. By this Revision Petition, under Section 21(b) of the Consumer Protection Act, 1986 (for short "the Act"), Central Government Employees Welfare Housing Organization and its Housing Project/Scheme (Phase-1) at Mohali, Punjab, Opposite Parties No. 1 and 2 respectively in the Complaint under the Act, call in question the correctness and legality of the order dated 12.04.2016, passed by the Punjab State Consumer Disputes Redressal Commission at Chandigarh (for short "the State Commission") in First Appeal No. 1008 of 2014, disposed of along with First Appeal No. 810 of 2014, preferred by the Respondent/Complainant. By the impugned order, the State Commission has concluded that there was no merit in the Appeal preferred by the Petitioners herein and since sufficient compensation had been awarded to the Complainant by the District Consumer Disputes Redressal Forum, SAS Nagar, Mohali (for short "the District Forum") vide its order dated 30.05.2014, passed in the Consumer Complaint No. 437 of 2013, preferred by him, there was no merit in the Appeal preferred by the Complainant as well. Consequently, the State Commission has dismissed both the Appeals. By the said order, the District Forum had allowed the Complaint, with a direction to the Petitioners herein to withdraw the Final Call-Up letter and issue fresh letter of offer of possession, indicating the details of approvals/

sanctions, obtained by them from various authorities regarding the amenities/facilities in the project, with certificate that such facilities were in existence on the date of offer of fresh letter of possession, and not to charge any interest on the amount lastly demanded till payment in pursuance of the fresh demand notice for the same amount, besides paying to the Complainant a lump-sum compensation of 2,25,000/- on account of mental agony, deprivation of enjoyment of the property etc. and 22,000/- towards litigation costs.

2. The occasion to file the Complaint arose under the following circumstances:

2.1 In pursuance of a Scheme, christened as "Kendriya Vihar Mohali", promoted/floated by the Petitioners in the year 2006 for allotment of residential flats, the Complainant applied for a flat by paying a booking amount of 60,000/-. Vide letter dated 11.04.2007, the Complainant was informed that he was kept in the Waiting List. Subsequently, the Petitioners issued an allotment letter in May, 2007. As per the said letter, the second installment was to be called only on the commencement of construction. In order to deposit the said installment, demanded by the Petitioners vide their letter dated 31.08.2007, the Complainant took a loan from Army Group Insurance Fund. Vide their letter dated 15.12.2008, the Petitioners informed the Complainant that the project had been approved by the local Mohali Authority and a technical Consultant had been appointed, from which the Complainant learnt that the construction had not commenced in May 2007 but in December, 2008 and, therefore, the demand raised towards the second installment was wrong and illegal. Though the Petitioners kept on demanding the installments through Call Notices but did not complete the construction. By a Circular, the Petitioners informed the Complainant that the construction would be completed in March, 2012 but they again failed to do so, forcing the Complainant to stay in a rented accommodation. On 30/31.05.2013, the Petitioners held the draw of lots for allotment of specific flat/floor/car parking. The Complainant continued to deposit the installments as per the schedule and demands made by the Petitioners. Then, the Complainant received a Final Call-Up letter dated 18.09.2013, together with another Circular of even date regarding offer of possession, from the Petitioners. Vide the said letter the Petitioners had demanded certain amounts, including for society charges @ 1.5%. According to the Complainant, the said demands were not justified; the cost of the dwelling unit had been wrongly arrived at, accounting for the cost/expenses caused on account delay in completion of the project by over three years; and the project was not complete in all respects. In the said background, alleging gross deficiency in service and unfair trade practice on the part of the Petitioners on various grounds, the afore-noted Complaint came to be filed before the District Forum.

3. Upon contest, on analysis of the evidence adduced by both the parties before it, the District Forum came to the conclusion that there was deficiency in service on the part of the Petitioners on various counts, spelt out in detail in the said order. Consequently, while allowing the Complaint, the District Forum issued the afore-noted directions to the Petitioners.

4. Aggrieved, both the parties carried the matter further in their respective Appeals to the State Commission, which, as noted above, dismissed both the Appeals. Hence, the present Revision Petition.

5. It is pointed out by the Office that this Revision Petition is barred by limitation, inasmuch as there is a delay of 113 days in filing the same. An Application, praying for condonation of the said delay, has been filed along with the Revision Petition. In paragraphs 2-3 of the said Application, the Petitioners have furnished the following short and crisp explanation:

"2. That the Petitioner received the certified copy of the impugned judgment and order dated 12.04.2016 passed by the Hon"ble State Consumer Disputes Redressal Commission, Punjab in First Appeal No. 1008 of 2014 on 09.06.2016.

3. That after the receipt of certified copy, the Petitioners forwarded the file to One Advocate Sh. Moitra for filing Revision Petition in June 2016. However the said advocate returned the files in December 2016 without giving any reasons."

6. We have heard learned counsel for the Petitioners on the question of delay.

7. In our view, the explanation furnished by the Petitioners is vague to the core and deserves outright rejection. Admittedly, the certified copy of the impugned order was received by the Petitioners on 09.06.2016. Bearing in mind the limited statutory period of 90 days, as provided under Regulation 14 of the Consumer Protection Regulations, 2005, for challenging the impugned order, the Petitioners were expected to act promptly and diligently, which is not the case here. The Revision Petition, required to be filed on or before 07.09.2016, has been filed before this Commission only on 26.12.2016, with an inordinate delay of 113 days. The said delay has been sought to be explained on the specious plea that for filing the Revision Petition the Petitioners had forwarded the case file to their Advocate, who, without taking any action in the matter, returned the same to them in December, 2016. Since in support of the plea urged, neither any explanation from the Advocate concerned has been placed on record nor any action being contemplated by the Petitioners on account of the said lapse on the part of their Advocate has been indicated in the Application, the explanation furnished by the Petitioners is an afterthought.

8. The question of delay by the Government Departments in prosecuting the cases has been engaging the attention of the Courts. In *Postmaster General and Ors. V. Living Media India Ltd. & Anr.* [(2012) 3 SCC 563], the Hon"ble Supreme Court has been pleased to observe as under:

"28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted

in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/ years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

9. In view of the afore-mentioned facts, I am of the opinion that the Petitioners have failed to make out any cause, much less a "sufficient cause" for condonation of inordinate delay of 113 days in filing the present Revision Petition.

10. Consequently, the Revision Petition is dismissed on the short ground of limitation.