
(2003) 01 NCDRC CK 0025

In the National Consumer Disputes Redressal Commission

CHAIRMAN, UNIT TRUST OF INDIA

APPELLANT

Vs

PENTA MALLESWARA RAO

RESPONDENT

Date of Decision : 24-01-2003

Acts Referred:

Citation : 2003 2 CPJ 427 : 2003 2 CPR 297 : 2003 3 CLT 303

Hon'ble Judges : P.Ramakrishnam Raju , Mamata Lakshmana J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is filed by opposite parties 1, 2 and 3 in C.D. No. 120/1997 on the file of District Forum, Srikakulam. The complainant purchased 3,000 units of Master Gain 92 under certificate No. 50799668 with folio No. 5372796 through the 4th opposite party who was the local dealer of shares. He applied for transfer of the said 3000 units and the third opposite party duly transferred the same in the name of the complainant along with a letter dated 14.7.1995. On 3.4.1996 the complainant submitted the said 3000 unit certificates to the second opposite party for repurchasing and making payment of the repurchase price for which he received an acknowledgement on the same day. The third opposite party requested the complainant by its letter dated 10.5.1996 to submit another repurchase form without giving any reason for the said requirement. The complainant, therefore, again submitted a repurchase application along with his letter dated 5.7.1996 to the third opposite party for making payment of the repurchase price of the units to him but to his surprise, he received a letter dated 20.7.1996 from the third opposite party informing him that as a result of the complaint made by the original holder, the third opposite party had restored the units to the original holder in the records and asked the complainant to return the unit certificates immediately. Since the unit certificates were already with opposite party No. 3, the question of return did not arise. The complainant alleged that since the units were transferred in his name, he had become the registered holder of the units and hence the title of ownership of the units was complete. Therefore, the opposite party No. 3 should not have restored the units to the previous holder, specially without any notice to him and that he was

entitled for the price of the units prevailing in the first week of July, 1996 which was Rs. 15.69 per unit when the units were submitted for repurchase along with the form, therefore, he should have been paid Rs. 47,070/- towards the repurchase price. Since there was inordinate delay, he claimed interest at 18 per cent per annum from July, 1996. He issued legal notices to the opposite parties for which there was no response, hence the complaint.

2. OPPOSITE parties 1 and 2 were set ex parte. OPPOSITE party No. 4 though filed Vakalath remained ex parte thereafter. OPPOSITE party No. 3 on behalf of opposite parties 1 and 2 also sent a statement on 11.7.1997 stating that the original holder had complained in 1995 about the non-receipt of the shares after allotment by the opposite parties, hence a stop mark was put for 21 days and he was asked to provide indemnity Bond. Hence when they received the original units and as the signature of the seller in the transfer application did not tally with the signature of the original registered holder they issued notice to the original holder but since they did not get any reply within the stipulated period of 30 days, as per SEBI rules, they affected transfer of the units in favour of the complainant. However, subsequently they received a legal notice from the original holder along with the indemnity bond and affidavit. Therefore, they put a stop mark against the alleged units after intimating the complainant about the said fact. When they received the repurchase application from the complainant for repurchase price, they informed that the units were restored to the original holder and advised the complainant that he had only two options, either to return the transfer application and the relevant certificates to his broker as "bad delivery" who in replacement shall either provide him with transfer deeds and replaced certificates or return his money back. After duly considering all the aspects, the District Forum came to the conclusion that there is deficiency in service on the part of the opposite parties and accordingly directed opposite parties 1 to 4 to pay a sum of Rs. 47,000/- with interest at 12 per cent per annum from 1.8.1996 till the date of payment together with costs of Rs. 1,000/- and Advocate fee of Rs. 500/-. However, the District Forum observed that opposite parties 1 to 3 were asked to pay the amount in the first instance and recover the same from opposite party No. 4 in separate proceedings. Aggrieved by the said order, this appeal is filed. We have carefully gone through the documents filed. The only point to be considered is whether the units were transferred after due notice to the respondent/complainant, at the appropriate time ?

We see as alleged by the appellants, the signature of the original unit holder did not tally with the transfer application and the appellants were aware of this fact, hence at the time of transfer itself, this fact should have been informed to the respondent/complainant, so that he could have taken up the matter with the broker and return the units as bad delivery. However, he was kept in dark and only when he sent the repurchase application for repurchase price, he was shocked to learn that they were restored to the original holder. We also see that the original holder sent a legal notice and indemnity bond dated 11.10.1995 and

affidavit dated 20.7.1995 stating that the units were not received by her. In view of this, the appellants put a stop mark against the transfer and at least at that point if not earlier, they should have informed the respondent/complainant, which was not done. Hence we find clear deficiency on the part of the appellants and do not find any reason to interfere with the order of the District Forum. The appeal, therefore, fails and is accordingly dismissed. Time for payment six weeks. Appeal dismissed.