

(2009) 03 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

Commissioner, Municipal Council, Aabu -Parvat And Ors.

APPELLANT

Vs

Himmat Mal Tailor

RESPONDENT

Date of Decision : 17-03-2009

Acts Referred:

Citation : 2009 2 CPJ 218

Hon'ble Judges : ASHOK BHAN , B.K.TAIMNI J.

Final Decision : R.P. dismissed

Judgement

1. PETITIONER herein, who was the Opposite Party before the District Consumer Disputes Redressal Forum, Sirohi, Rajasthan (hereinafter referred to as the District Forum" for short), has filed the present Revision Petition.

2. SHORTLY stated, the facts of the case are -

3. RESPONDENT /complainant was allotted a residential plot No. 1 in Kala Chhapta Scheme in the Lower Income Group category vide letter No. MS/3/76/107 dated 13.4.1978. The total price of the plot was Rs. 1,165 respondent, as required, deposited a sum of Rs. 292 being 1/4th of the sale consideration on 30.3.2005. Petitioner informed the respondent that the remaining 3/4th of the cost of the plot would be recovered after receiving the sanction from the District Collector, Sirohi, Rajasthan. Respondent repeatedly asked the petitioner to receive the balance amount of consideration from him and execute the title deed but the petitioner did not reply to the same. Petitioner also failed to communicate to the respondent requiring him to deposit remaining 3/4th price of the plot. Being aggrieved, the petitioner filed a complaint on 28.2.2002 before the District Forum. Apart from merits, the petitioner took the preliminary objection that the respondent was not a consumer and that the complaint had been filed beyond the prescribed period of limitation. District Forum allowed the complaint and directed the respondent to deposit the balance amount towards the price of the plot and simultaneously directed the petitioner to allot the plot to the respondent within one month of the deposit of the balance amount by the respondent.

4. PETITIONER being aggrieved filed an Appeal before the State Consumer Disputes Redressal Commission, Rajasthan (hereinafter referred to as the State Commission" for short). The State Commission agreeing with the findings recorded by the District Forum, dismissed the appeal. It was held that the petitioner had failed to allot the plot in spite of repeated requests made by the respondent to accept the balance amount of payment.

5. BEING aggrieved by the Order passed by the Fora below, the present Revision Petition has been filed.

6. COUNSEL for the petitioner contends that the complaint filed by the respondent was hopelessly time barred. The Order of Allotment is of the year 1977 and the complaint was filed in the year 2000, after a delay of 3 years, much beyond the prescribed period of two years from the arising of the cause of action. We do not find any substance in this submission.

7. THE petitioner had informed the respondent that he would be required to pay the balance 3/4th amount towards the cost of the plot only after it receives the sanction from the District Collector, Sirohi, Rajasthan. Petitioner failed to communicate to the respondent requiring him to deposit the balance 3/4th amount towards cost of the plot. Not only that, the petitioner also failed to accept the balance amount in spite of the repeated requests made by the respondent to accept the balance amount. The petitioner has failed to indicate the date on which the cause of action had arisen to the respondent. Under the circumstances, the complaint filed by the respondent would be deemed to be within limitation.

8. SINCE the plot had been allotted to the respondent, he would be a consumer" within the meaning of Section 2(I)(d) of the Consumer Protection Act, 1986.

9. IT may be noted that the two points regarding the limitation and that the petitioner was not a consumer, had not been urged before the State Commission.

10. ON merit, we agree with the view taken by the District Forum as well as the State Commission that there was a deficiency on the part of the petitioner in rendering services to the respondent.

11. NO other point was urged before us.

12. FOR the reasons stated above, we do not find any merit in this Revision Petition and dismiss the same with costs, which are assessed at Rs. 1,500. Petitioner is directed to comply with the Orders issued by the Fora below.