

(2007) 03 DEL CK 0283
In the Delhi High Court
Case No : Writ Petition (C) 10934 of 2005

D.B. Masih

APPELLANT

Vs

Registrar Cooperative Society

RESPONDENT

Date of Decision : 05-03-2007

Acts Referred:

Delhi Co-operative Societies Rules, 1973 — Rule 77

Citation : (2007) 141 DLT 101 : (2007) 95 DRJ 564

Hon'ble Judges : Mukul Mudgal, J;Aruna Suresh, J

Bench : Division Bench

Advocate : Manorma Masih, Sher Afgon Proxy and Deepak A. Masih, for the Appellant; H.P. Sahu, for R-1, Subhash Chandra, Proxy, P.S. Singh for R-2 and Anil Srivastav, for R-4, for the Respondent

Judgement

Mukul Mudgal, J.—Rule DB.

2. With the consent of the learned Counsel for the parties, the Writ Petition is taken up for final hearing.

3. The case set up by the Petitioner is as under:

(a) The petitioner acquired membership of the respondent society on 16.02.2000 for a two bed room apartment. He was charged a premium of Rs.1,00,000/-, which was paid in two equal installments of Rs.50,000/- each. A total of Rs.8,10,000/- including the amount of premium was paid partly in cash and partly by way of cheque.

(b) Later, the respondent increased the amount of the apartment by around 50% without any tangible progress in the construction work. In view of the above conduct of the respondents, the petitioner resigned from the membership of the respondent society on 30.07.2001 and requested for release of the money so paid. The respondents, however, after dilly-dallying the matter, only made part payment. Petitioner was telephonically informed by the respondent No. 3 that the amount of premium that is Rs.1,00,000/- has been credited to the personal

account of the Respondent No. 4, without any Explanation for the same.

(c) Till May 2003, a total amount of Rs.7,09,990/- was refunded against the total amount of Rs.8,10,000/- made by the Petitioner.

(d) The petitioner sent a legal notice dated 14.02.2005 reminding and demanding Rs.1,01,100/- along with interest thereon, which was not replied to by the respondent. Aggrieved by the inaction on the part of the respondent as also the apprehension of misappropriation of the money by the respondents, the petitioner approached this Hon"ble Court. It is not in dispute that the balance sum of Rs.1 lakh was enjoyed by the Respondent No. 4 for a period of nine months.

4. We have taken into account the facts of the case as well as the directives under Rule 77 of the Delhi Cooperative Societies Rules 1973, dated 28th May, 1990 of the Registrar which is as follows:

DIRECTIVE UNDER RULE 77 OF THE DELHI COOPERATIVE SOCIETIES RULES, 1973

Sub: Rate of interest to be charged by the group Housing societies from the defaulting members.

(1) It has been noticed that some of the group housing societies are charging Interest from the defaulting members at the rate more than 18% which Is not just and equitable as prevailing lending rates of the financial institutions. As In modal by-laws adopted by the group housing societies there is no provision about the panel (penal) rate of interest to be charged from the defaulter, Therefore, it is considered appropriate to prescribe maximum rate of panel (penal) interest which will be chargeable from the defaulting members of the Cooperative group housing societies.

(2) Similarly, at present there is no specific rate of interest/equalization charges which may be charged from a newly enrolled member by a coop. group housing society at the advance-stage of its construction and as a result there of different managements of the societies follow different criteria for charging equalisation charges/interest. In some cases no equalisation charges are shown to have been charged from the newly enrolled member, Therefore, it is considered necessary to prescribe a uniform equalisation charges/interest for all the newly enrolled members by the coop. group housing society at the advance stage of construction.

(3) It has also been noticed that when a member of a coop. group housing society resigns/expelled, he is not paid any interest on the amount deposited by him. As his money remains blocked and is utilised by the society for construction of flats, Therefore, it Is considered necessary that a member who resigns from the primary membership of the society is paid interest on the amount deposited by him after deducting the administrative expenditure incurred by the society during the period he remained member of the society.

(4) Keeping in view the above stated facts, I, Gita Sagar, Registrar, Cooperative Societies in exercise of powers vested in me under Rule 77 of the Delhi Coop. Societies Rules, 1973 prescribe the following norms for charging interest from its member by the coop. group housing societies:

1. The maximum rate of interest which may be charged by the coop. Group housing Societies from the defaulting members subject to the resolution passed by the G.B. of the society is mentioned below:

a) For default of payment of Installment up to 6 months 12%

b) For default of payment of Installment up to 1 year 15%

c) For default of payment of Installment more than on year - 18%

2. Equalisation charges/interest to be charged from the member enrolled at the advance stage of construction - 24%

3. Interest to be paid by a group housing society to a resigned/expelled member on the amount deposited after deduction the administrative expenditure incurred by the society - 7%

This issues for the information and guidance of all the group housing societies.

5. After taking into account the facts that Rs. one lac was enjoyed for about a period of nine months by the Respondent No. 4, which amount has now been returned to the Petitioner, we are of the view that Respondent No. 4 shall pay a sum of Rs.7,000/- to the Petitioner and the Respondent No. 2 Society after taking into account the administrative expenditure incurred by them and the litigation expenses, the Respondent No. 2 will pay a sum of Rs.20,000/- towards full and final settlement of the claim of the Petitioner.

6. Learned Counsel for the Petitioner states that in case the said amount of Rs.27,000/- (Rupees Twenty Seven thousand only) is paid to him, no further claim will be raised.

7. The said amount shall be paid within a period of not later than 30th April, 2007 failing which it will carry the interest at the rate of 7%.

The Writ Petition stands disposed of with no orders as to costs.