

(1996) 04 NCDRC CK 0019

In the National Consumer Disputes Redressal Commission

Executive Engineer And Administrative Officer Tnhb

APPELLANT

Vs

S Jacob

RESPONDENT

Date of Decision : 23-04-1996

Acts Referred:

Citation : 1996 2 CPC 257 : 1996 2 CPJ 73 : 1996 2 CPR 160 : 1997 1 CLT 183

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , R.THAMARAJAKSHI ,
S.P.BAGLA J.

Judgement

1. THIS revision petition has been filed against the order dated 28.4.95 passed by the State Consumer Disputes Redressal Commission, Madras in A.P. No. 206 of 1995.

2. FACTS of the case as seen from the available records are that the complainant (respondent herein) was allotted a house in HIG Scheme at Velluvar Nagar, Dharmapuri on 1.6.86 and he paid its full cost of Rs. 1,16,948/- on 13.8.87 and took possession on 13.9.87. On 30.6.93, the opposite party (revision petitioner herein) directed the complainant to pay a further sum of Rs. 5,130/- towards the difference between the tentative cost and the final costs. According to the complainant, this claim for Rs. 5,130/- was unjust and untenable; the opposite party also failed to execute the deed of sale. Hence a complaint was filed before the Dharmapuri District Consumer Disputes Redressal Forum for directing the opposite party to execute the deed of sale without claiming any further amount. It was the opposite party's case that the lease -cum -sale agreement provided for revision of the tentative cost and that the complainant was in arrears of maintenance and water charges in the sum of Rs. 1,600/-. It was further contended that the complainant had not obtained a No Objection Certificate (NOC) from his employer, and hence the deed of sale could not be executed. The District Forum took the view that it cannot go into the matter of accounting, accepted the contentions of the opposite party and dismissed the complaint. The complainant preferred an appeal before the State Commission. The State Commission held that according to Clause 17 of the Lease -cum -Sale Agreement, the final cost for the building must be fixed within a period of three

years from the date of allotment. The Commission also held that while the price of land is subject to revision on account of any excess compensation awarded by the Court in the Land Acquisition Proceedings, the case on hand was not one such case but pertained to re-fixation of price of the building. The Commission also noted that there was no document to establish the complainants arrears of maintenance and water charges nor any rule brought before the Commission that the sale deed has to be executed to the allottee only after getting NOC from the employer. In the result, the State Commission held that the failure of the opposite party to execute the sale deed for nearly 6 years after the full payment amounts to gross deficiency in service, set aside the order of the District Forum and allowed the appeal with costs to the complainant for the proceedings before the District Forum and the State Commission. Aggrieved by this order, the opposite party has filed the present revision petition before us. We have heard the case and carefully considered the papers on record. The points raised in the revision petition are repetition of those made before the State Commission and District Forum i.e., (i) the matter is essentially one relating to rendering of accounts and if the complaint is allowed, the excess amount charged would have to be borne by the general public, and (ii) since the said house property has been mortgaged to the Governor of Tamil Nadu for availing a House Building Advance by the respondent, he was bound to produce a NOC from his employer before a sale deed can be executed. The Counsel for the Appellant advanced a general argument that the Board takes up a lot of schemes and in most of them where the land has been acquired under Section 4(1) Notification etc. the land owners are bound to go to various Courts leading to delay in assessment of the final cost of land. However, the Counsel has not specifically shown that in the present case, the excess was due to such land acquisition proceedings. Besides, the Petitioner Board is bound by Clause 17 of the agreement where it has itself stipulated a period of 3 years for finalisation of the cost. Further, this agreement does not contain any clause regarding production of NOC by allottees who avail of loans/ advances from their employers nor did the Counsel for the Board produce any document/record to show that the State Government has bound the Board for the production of NOC from them. The Revision Petition is thus devoid of merits and is therefore, dismissed. We confirm the order of the State Commission. No costs. . Petition dismissed.