

(1997) 09 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

HARYANA URBAN DEVELOPMENT AUTHORITY

APPELLANT

Vs

NARINDER KUMAR BATTAL

RESPONDENT

Date of Decision : 22-09-1997

Acts Referred:

Citation : 1997 3 CPJ 543 : 1998 1 CLT 332

Hon'ble Judges : M.R.Agnihotri , Sushil Paul J.

Final Decision : Appeal allowed

Judgement

1. THE Haryana Urban Development Authority (for short "the HUDA") has come up in appeal against the order dated February 15, 1996, passed by the learned District Consumer Disputes Redressal Forum, Gurgaon, whereby the complaint of one Narinder Kumar Batta has been allowed and the Demand Show Cause Notice dated February 9, 1995, issued by HUDA for Rs. 6.300/- by way of extension fee has been set aside.

2. ACCORDING to the complainant, he is the owner of plot No. 48, Sector 14, Gurgaon, measuring 250 Sq. Yrds. On December 1, 1993, he detected that the front portion of his plot was shortened by 3 feet due to the construction of the adjoining plot No. 47. In order to restrain his neighbour from proceeding further with construction, he approached the Civil Court on December 3, 1993, for obtaining a prohibitory order. However, the civil suit was dismissed on 18.10.1994. According to HUDA, the plot was reallocated to the complainant on 7.10.1991 and the area at the site was found to be 27" x 75" and not 30" x 75". However, as ordered by the Civil Court, the refund of the necessary amount was duly remitted by HUDA to the complainant. Despite that, the complainant approached the learned District Consumer Disputes Redressal Forum, Gurgaon, after the expiry of the period of two years from the date of the delivery of possession, i.e. 7.10.1991. The objection of limitation raised by HUDA was, however, declined by the learned District Consumer Disputes Redressal Forum and the complaint was dismissed on the ground that it was on 18.10.1994 after the conclusion of the civil suit, that the complainant thought of evoking the

jurisdiction under the Consumer Protection Act.

In this first appeal before us, Shri G.I. Sharma, learned Counsel for the appellant HUDA, has vehemently contended that cause of action, if any, arose to the complainant on 7.10.1991 after delivery of the actual physical possession of the plot to the complainant. The pendency of the suit or its conclusion on 18.10.1994 had no relevancy with the filing of the present complaint before the learned District Consumer Disputes Redressal Forum. Thus, according to the learned Counsel, the present complaint was barred by limitation.

3. AFTER hearing the learned Counsel and having gone through the record, we find merit in the contention of the learned Counsel for HUDA, the appellant, as the complaint was certainly time-barred having been filed on 18.10.1994, i.e. more than two years after 7.10.1991, when the cause of action arose. Consequently, we allow the appeal filed by HUDA, set aside the order passed by the learned District Consumer Disputes Redressal Forum, Gurgaon, and dismiss the complaint with no order as to costs. Appeal allowed.