
(2009) 02 NCDRC CK 0063

In the National Consumer Disputes Redressal Commission

INDRAPRASTHA WELFARE SOCIETY

APPELLANT

Vs

SHANTHALA B.S. , VILASINI VITTAL KAMATH , V.S.SKANDA
PRASAD , SURATKAL NAGESH KAMATH

RESPONDENT

Date of Decision : 06-02-2009

Acts Referred:

Citation : 2009 0 NCDRC 30

Hon'ble Judges : Ashok Bhan , B.K.Taimni J.

Final Decision : Petitions dismissed

Judgement

1. THIS Order shall dispose of the aforementioned 4 Revision Petitions, as the point involved in all these Revision Petitions is same. The Karnataka State Consumer Disputes Redressal Commission, Bangalore (hereinafter referred to as the State Commission) as well as I Additional District Consumer Disputes Redressal Forum, Bangalore Urban District, Bangalore (hereinafter referred to as the District Forum for short), had also disposed of the Appeals and Complaints by passing a common Order. The Revision Petition has been filed by Opposite Party No. 2/petitioner (hereinafter referred to as the petitioner for short). In short, the facts of the case are: -

2. COMPLAINANTS in all the 14 Appeals approached the petitioner for allotment of sites pursuant to the advertisements made by Vyalikaval House Building Society, Bangalore-Opposite Party No.1/respondent no.2 (hereinafter referred to as Society for short) in the matter of formation of layouts and allotment of sites to its members. The layouts proposed by the Opposite Party were Hosahalli Layout, Vishweswaranagar Layout, Chanakyapuri Layout and Ganganahalli Layout. COMPLAINANTS paid the requisite amount and were made members of the Society. A passbook was issued to each one of them. Periodically, as per the demand, they had paid the money towards the allotment of sites to the Society. In spite of lapse of several years, the Society neither completed the formation of layouts nor allotted the sites. Being aggrieved, complainants filed 14 different complaints before the District Forum, claiming the same/similar relief against the

Society and the petitioner. The District Forum, by its Order dated 08.12.2003, disposed of all the complaints by passing a common Order, as the point involved in all the complaints was the same. The District Forum held the petitioner and the Society, jointly and severally responsible and directed them to pay the amounts which had been deposited by the complainants along with interest @10% p.a. from the respective dates of deposits till the date of payment along with cost of Rs.1,000/-. The petitioner and the Society were directed to pay the amounts to the complainants within 4 weeks.

Aggrieved against the Order passed by the District Forum, the Society did not file any Appeal.

3. PETITIONER filed Appeals against 4 complainants/respondents out of 14 complainants. The State Commission affirmed the Order of the District Forum and dismissed the Appeals. Aggrieved against the Order passed by the State Commission, the present Revision Petitions has been filed.

4. COUNSEL for the petitioner contends that the complaint filed against it was misconceived, as the petitioner did not render any service to the complainants. The service, if any, was to be rendered by the Society. Complainants, who were members of the Society, applied for allotment of plots in the Society and, accordingly, complainants paid respective amounts for the same to the Society. That the petitioner cannot be held jointly and severally liable for making payment to the complainants. Petitioner did not choose to file Appeal before the State Commission against 10 other complainants who were similarly situated. Petitioners have accepted their liability as against the other 10 complainants. The petitioner cannot turn around and now say that he cannot be held jointly and severally liable qua these respondents. If the petitioner accepts his liability towards the other 10 complainants, who were similarly situated as the respondents herein, then, we fail to understand as to why and on what basis, the petitioner says that he cannot be held jointly and severally liable for making the payment to the respondents? 8. Counsel for the petitioner was unable to give any explanation as to why it chose to file the Revision Petitions only against 4 complainants and not the other 10 complainants except to say that the cause of action in all the 14 complaints is different and he could file the Appeal/Revision Petition against any one of them of his choosing. He cannot choose to file Appeals selectively against some of the complainants and not others. We are unable to appreciate this contention. The facts in all the complaints are common. They were disposed of by a common Order and petitioner was made liable jointly and severally qua all the 14 complainants. If he (petitioner) accepted his liability against 10 other complainants, then, it cannot be held that he is not liable qua the respondents in these Revision Petitions. The petitioner has failed to point out any feature, which distinguishes the case of the respondents from the 10 other complainants.

For the reasons stated above, we do not find any merit in these Revision Petitions and, accordingly, they are ordered to be dismissed. Since, respondents

are not represented before us, we cannot make any Order as to costs.