

(2012) 09 NCDRC CK 0080

In the National Consumer Disputes Redressal Commission

JUGAL KISHORE MITTAL

APPELLANT

Vs

HARYANA URBAN DEVELOPMENT AUTHORITY , ESTATE
OFFICER, HUDA

RESPONDENT

Date of Decision : 07-09-2012

Acts Referred:

Citation : 2012 0 NCDRC 528

Hon'ble Judges : Vinay Kumar , J.M.Malik J.

Advocate : Vikas Deep

Judgement

1. JUGAL Kishore Mittal, the petitioner/complainant was allotted a residential plot NO.2633-P, in Sector-62, Faridabad, Haryana by the Opposite Parties/respondents on 25.06.2003. The complainant had deposited Rs.74,091/- i.e. 10% of the total cost at the time of booking as "Earnest Money ". The petitioner was required to deposit Rs.1,29,659.25ps, i.e. 15% of the total cost, within 30 days " from the date of allotment upto 24.07.2003.

2. ON 24.07.2003, the petitioner tried to deposit a draft in the sum of Rs.1,29,660/- issued by Oriental Bank of Commerce, Faridabad, dated 24.07.2003 with the Estate Officer, HUDA, Faridabad, respondent No.2. He was asked to collect the receipt on the next day. However, due to the fraud of official of respondent No.2, the said draft was not deposited in the Office of HUDA and the same was returned to the petitioner on 25.07.2003. This story appears to have been made out of whole cloth. Not even an iota of evidence was led to substantiate this version. The names of the officer/officers who allegedly led the complainant up the garden path were never disclosed. For all these reasons, we do not find amenable to this story. Moreover, the counsel for the complainant did not raise this issue before us. It is also difficult to fathom as to how the so called fraud would benefit those officers. The petitioner was asked to surrender the plot to take the earnest money. On 25.07.2003, the petitioner gave in writing and surrendered the plot. On 08.08.2003, respondent No.2, issued a letter stating that complainant "s earnest money stood forfeited. On 07.02.2005, the

petitioner requested for restoration of plot and representation was made by the petitioner before the Administrator, HUDA, Faridabad, who, was exercising the power of Chief Administrator, HUDA, but the same was not accepted vide order dated 07.02.2005.

The petitioner filed a complaint before the District Forum which was dismissed on 27.06.2008. The appeal was also dismissed by the State Commission on 02.03.2012. The respondents have denied that the complainant had come to them on 25.07.2003 to deposit the draft. They contended that the petitioner had failed to deposit 15% of the amount of the total cost within 30 days from the date of allotment letter.

We have heard the learned counsel for the petitioner. He vehemently argued that the respondents cannot forfeit the earnest money deposited by the complainant. He contended that the letter of forfeiture of the amount and the order passed by the Chief Administrator, HUDA are invalid. He submitted that the petitioner is entitled to get the re-allotment of the plot. All these submissions do not enure in favour of complainant/ petitioner. In HUDA Vs. Kewal Krishan Goel and Ors., 1996 HRR page 478, the Apex Court has observed that the HUDA is fully entitled to forfeit the earnest money which has been deposited in case of inability to pay the balance amount, within 30 days " from the date of deposit.

3. THE State Commission has referred to few authorities which go to fortify the case of the respondent. In HUDA Vs. M/s. Zuari Industries, 2009 (3) RCR (Civil) 104 (DB), it was held that since the petitioner had surrendered the plot, therefore, he had no right to get return of the surrendered plot. Again in HUDA Vs. Pashu Lal Nagpal, 2010 (1) CPC 277, it was held that once the complainant has surrendered the plot and accepted the price of the plot, he cannot seek the re-allotment of plot. The State Commission has also referred to another authority, Surinder Mohan Vs. Municipal Corporation and Anr., reported in 2010 (1) CPC 200.

4. THE revision petition filed by the petitioner is meritless and, therefore, the same is dismissed.