(2012) 07 NCDRC CK 0143

In the National Consumer Disputes Redressal Commission

LIC Housing Finance Ltd APPELLANT

Vs

Rajeev Rastogi S/O Shri R S Rastogi RESPONDENT

Date of Decision : 10-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 335 : 2012 3 CPJ 694 : 2012 3 CPR 355

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

Advocate : S.K.Sharma , Ajeet Kadian , Jagdeep Singh Dhara

Judgement

1. MR. Rajeev Rastogi and Mrs. Ranjana Rastogi, respondents No. 1 and 2, respectively applied for loan for construction of a house at Barotiwala situated in Himachal Pradesh. All the original title deeds were deposited in favour of LIC housing Finance Limited. Shri Satish Kumar Saini, Agent, respondent No. 3 informed the complainants/respondents No. 1 and 2 that their loan had been sanctioned on 26.11.2007. However, the complainants did not receive any cheque or draft in respect of said loan. They again approached the petitioner and were informed that their loan papers had not been forwarded by Mr. Satish Kumar Saini and the period of validity of loan had lapsed. Consequently, the complainants contacted Mr. Satish Kumar Saini. Mr. Satish Kumar Saini demanded certain documents which were handed over to him. The complainants were again told by Mr. Satish Kumar Saini that their loan had been sanctioned on 7.6.2008 but they did not receive any cheque or draft. Mr. Satish Kumar Saini again demanded jamabandies of the last 13 years from the complainants which were not sent and their loan was not sanctioned. Thereafter, the complainants sent a legal notice dated 29.8.2008 wherein the petitioner and respondent No. 3 were asked to do the needful but it did not produce the desired result. Consequently, the complaint before the District Forum was lodged.

2. THE defence set up by the defendant was that the complainants could not produce the requisite documents and as such the loan was not sanctioned.

3. THE District Forum allowed the complaint and directed the petitioner to pay Rs.50,000/- to the complainants within 30 days failing which the said amount

would carry interest @12% p.a. since the filing of the complaint dated 12.9.2009 till the recovery of payment. The State Commission also upheld the above said order.

4. WE have heard the learned counsel for the petitioner. He vehemently argued that since the complainants did not produce requisite documents, the loan was not sanctioned in their favour. On the other hand, learned counsel for the respondents contended that the title deeds of the plot were already deposited with the petitioner. However, no jamabandies were produced because those were not relevant and jamabandies simplicitor are not the title deeds. It was also pointed out that, thereafter, the title deeds were taken back and the loan was obtained from some other bank.

5. IT must be borne in mind that both the fora below have held that the title deeds are already deposited with the petitioner. The State Commission held: "A perusal of letter dated 26.11.2007 shows that earlier while sanctioning loan to the complainants, OPs wanted the ownership proof of existing house, NOC of P/L and Auto Loan as per IBIL but in the subsequent sanction dated 7.6.2008 the only document asked for was ''ownership proof of existing house'' and not of the plot whereas the complainants had applied for loan for the construction of house on a vacant plot as mentioned in the loan application annexure R-1. OP never asked for title deeds of the plot in question. The complainants thus were not at fault in not submitting the title deeds of the plot as the same was not asked through any of the sanction orders. Further, it is the case of complainants that they had already submitted title deeds of the plot twice as demanded by OP. Had title deeds of the plot not been submitted to OPs, they would have certainly asked for the same through the sanction orders. All this goes a longway to show that complainants had already submitted the title deed of the plot and completed other formalities."

6. IT is clear that petitioner was deficient in discharge of due service towards the complainants. Both the courts have held that the title deeds of the plot were deposited with the petitioner. When the complainants had handed over the title deeds to the petitioner, what was the need of asking for more documents? The skimble scamble explanation given by the petitioner further weakens its case. The non-production of any notice in writing dampens the ardour of petitioner''s case. Oral requests made through its agent carries exiquous value. On the other hand, an integument of suspicion envelopes the integrity of petitioner''s officials. This is fit case where inquiry must be made by the petitioner itself against its officials. The revision petition is lame of strength, therefore, the same is hereby dismissed with costs to the respondent/complainant which are assessed at Rs.15,000/-.