

(1994) 04 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

MANOHAR LAL BATRA

APPELLANT

Vs

VICE CHAIRMAN, D.D.A.

RESPONDENT

Date of Decision : 29-04-1994

Acts Referred:

Citation : 1994 3 CPJ 332

Hon'ble Judges : R.N.Mittal , S.Brar , A.N.Saxena J.

Final Decision : Complaint allowed

Judgement

1. BRIEFLY the facts are that the complainant had two plots-one commercial and the other residential, both measuring about 650 sq. yards in Delhi. They were acquired by the L & B Department, Delhi Administration, respondent. He was informed by the respondents that he was entitled to allotment of an alternative developed plot on lease hold basis measuring 250 sq. yards, in the DDA's Schemes in the East Zone. However, instead of allotting a plot measuring 250 sq. yards, the DDA offered him a flat of 150 to 200 sq. yards which he declined to accept. The DDA then asked the complainant to wait till a big plot was available. They also asked him to deposit Rs. 3,000/- as earnest money which he deposited.

2. IT is pleaded that though the respondents had assured him that 250 sq. yards plot would be allotted, yet a plot measuring 126 sq. yards was allotted to him in 1985, Again he did not accept the plot and informed the DDA accordingly. The DDA in November '85 asked him to wait for a bigger size plot as per his entitlement. He was later informed by them that the DDA had decided to allot him a plot in West Zone instead of East Zone. In view of certain unforeseen circumstances, it is alleged, he agreed to the offer of the DDA to shift the location of the flat from East to West Zone in 1986. The DDA informed the complainant in April '89 that as per the revised policy, he was entitled to allotment of a plot according to his entitlement at that time, which was 40 sq. yards. Consequently he filed a complaint for directing the DDA to allot a plot according to his entitlement and pay an amount of Rs. 3 lacs as compensation for the mental harassment and increased cost of construction.

The complaint has been contested by the respondents. They controverted his allegations and submitted that the name of the complainant was recommended for allotment of a plot measuring 250 sq. yards by Land & Building Department in lieu of his plots measuring 650 sq. yards, vide award dated 29-5-74. However, he was offered plot of 150-200 sq. yards in the East Zone in 1984. Later he was offered the plot measuring 126 sq. yards in 1985 but he did not accept the same. It is pleaded that thereafter the policy was revised by the Government and according to the new policy he was offered a plot of 40 sq. yards in Rohini. It is alleged that now he is not entitled to allotment of plot measuring 40 sq. yards even.

3. WE have heard the learned Counsel for the parties. The earliest letter produced by the complainant is dated 17-3-83 (Annexure "A") in which respondent No. 2 had written to the DDA to allot a plot of 250 sq. yards to the complainant in lieu of his land measuring 650 yards in village Chilla acquired by the Government. It has even been admitted by the DDA in their W.S. that the complainant was entitled to a plot measuring 250 sq. yards. It is evident from the pleadings that due to change in the policy the area of the plot was reduced 1st from 250 to 150-200 sq. yards and thereafter to 40 sq. yards. Ultimately the respondents refused to give him any plot. The Government while acquiring the land of the land-owners gave the compensation to them in the form of developed plots. Once the award was given the Government cannot be allowed to say that he was not entitled to plot or entitled to a plot of lesser area. In view of the award he was entitled to a plot measuring 250 sq. yards and the respondents are bound to honour their commitment. They are also estopped by their conduct to withdraw the said offer. Therefore, the complainant is entitled to a plot measuring 250 sq. yards in a developed locality in Delhi.

4. IT may not be possible for us to give definite plot to the complainant. IT may also not be possible for us to name the area in which the plot should be allotted to him as the plots may not be available in that area. IT will, therefore, be proper for the DDA to inform the complainant about plots of 250 sq. yards which are available at present and he may be allowed to choose one out of them. In case no plot is available of that area, he may be given one after demarcating the same in any of the areas which are being developed now. The complainant has not been given the plot in the last more than a decade. It is natural that he must be feeling mental pain and harassment. Consequently we award Rs. 50,000/- as compensation to him for mental pain and harassment. Both the respondents are liable to pay the same jointly and severally. 9 For the aforesaid reasons we accept the complaint and direct the respondents to give him a plot as indicated above and pay Rs. .50,000/- to him within six months. In case they fail to do so within the said period action shall be taken against them u/Sec. 27 of the Consumer Protection Act. Costs Rs. 2,500/-. Complaint allowed.