

(2003) 03 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

MANORAMA VIJ

APPELLANT

Vs

SWATANTRA LAND AND FINANCE PVT. LTD.

RESPONDENT

Date of Decision : 04-03-2003

Acts Referred:

Citation : 2003 2 CPJ 558

Hon'ble Judges : Lokeshwar Prasad , Rumnita Mittal J.

Final Decision : Appeal dismissed

Judgement

1. THE present appeal, filed by the appellant, under Section 15 of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act"), is directed against order dated 26.9.2002, passed by District Forum-VI, Kasturba Gandhi Marg, New Delhi, in Complaint Case No. OC/866/2002 entitled Ms. Manorma Vij v. M/s. Swatantra Land and Finance Pvt. Ltd.

2. THE facts, relevant for the disposal of the present appeal, briefly stated, are that the appellant, Ms. Manorama Vij, had filed a complaint before the District Forum, under Section 12 of the Act, averring therein that the appellant had booked a plot, measuring 200 sq. yds., at Indraprasth Colony, Faridabad, with the respondent on 24th March, 1963, at the rate of Rs. 17/- per sq. yd. It was stated that after booking the plot, as per the terms and conditions, the appellant had paid the total consideration including external sewer charges in respect of the above said property. It was stated that the respondent, after receiving the total cost of the plot, on 6th November, 1971 raised an illegal and wrong demand of Rs. 370/- on account of instalment of electric poles and external sewerage charges which was contrary to the terms and conditions of the contract. it was further stated that on 17th September, 1982 the respondent further demanded a payment of Rs. 610/- on or before 17th October, 1982, failing which it was stated that the allotment made in favour of the appellant would stand cancelled. It was stated that the subsequent demands raised by the respondent, were illegal and arbitrary as the respondent had no lawful right or authority to demand additional payment. It was stated that the respondent by raising additional illegal demands

was trying to harass the appellant and was trying to allot some other plot lesser in area to the appellant which was totally wrong and illegal. It was stated that the appellant, vide letter dated 27th October, 1987, refuted the extra charges being demanded by the respondent. Alleging deficiency in service on the part of the respondent, it was prayed by the appellant in the complaint, filed by him, that the respondent be directed to hand over possession of the plot in question to the appellant, together with compensation of Rs. 4,00,000/- and cost of litigation. The complaint, filed by the appellant, has been dismissed by the learned District Forum, vide impugned order on the ground that the same was barred by limitation.

Feeling aggrieved, the appellant has preferred the present appeal under Section 15 of the Act.

3. WE have heard the learned Counsel for the appellant at length on the question of admission of the present appeal and have also carefully gone through the documents/material on record. On the basis of material on record, it is not in dispute that the plot in question was booked by the appellant with the respondent on 24th March, 1963. It is also not disputed that, as per appellant's own case, the alleged illegal and unauthorized additional demand was raised by the respondent for the first time on 6th November, 1971, demanding a sum of Rs. 370/- for external sewerage charges and thereafter another additional demand of Rs. 610/- was raised by the respondent vide letter dated 17th September, 1982. On a perusal of the complaint, filed by the appellant before the District Forum (copy at pages 13 to 21 of the paper book), it is apparent that the cause of action for filing the complaint before the District Forum, as per the case of the appellant, was the illegal and unauthorized demands raised by the respondent on 6th November, 1971 and thereafter on 17th September, 1982. The learned Counsel for the appellant during the course of arguments made a vain attempt by contending that the complaint, filed by the appellant before the District Forum, was well within the prescribed timelimit, as the appellant thereafter also visited the office of the respondent on good number of occasions and also got served a legal notice dated 22nd January, 2002 on the respondent. It is contended by him that in view of the above fact, the complaint filed by the appellant in the District Forum on 5th September, 2002 was well within the prescribed timelimit. The learned Counsel for the appellant, in support of the case of the appellant, has also placed reliance on a decision of the State Commission, Uttar Pradesh, in case Housing Commissioner, U.P. Housing and Development Board & Anr. v. Purushottam Kumar, reported as I (2002) CPJ 317. In our opinion, the above contention, being advanced by the learned Counsel for the appellant, is devoid of substance and in no way helps the cause of the appellant insofar as the present appeal is concerned, because visits of the appellant to the office of the respondent and thereafter sending a legal notice, would by no stretch of imagination extend the period of limitation. As regards the decision of the State Commission, Uttar Pradesh in Housing Commissioner, U.P. (supra), the position is that the same is distinguishable. In the above said case,

decided by the State Commission, Uttar Pradesh, it has been held that no information about the cancellation of the scheme was given by the appellant to the respondent, Shri Purushottam Kumar, whereas in the present case the respondent had duly informed about the additional demand to the appellant, vide letter dated 17th September, 1982. The respondent had even informed the appellant that if the payment demanded vide above said communication was not made on or before 17th October, 1982, the allotment would stand cancelled automatically. Not only that, the appellant gave a response to the above said communication, vide letter dated 27th October, 1987.

4. IN view of the position explained above, the order being impugned in the present proceedings suffers from no infirmity so as to call for any interference by this Commission in exercise of its appellate powers. The present appeal, filed by the appellant is, therefore, devoid of substance. The same merits dismissal. Accordingly, the same is dismissed in limine with no orders as to costs. Appeal dismissed.