

(2014) 10 NCDRC CK 0003

In the National Consumer Disputes Redressal Commission

M/S. Jtpl Township (P) Ltd.

APPELLANT

Vs

Rana Ranjit Singh Dhillon

RESPONDENT

Date of Decision : 17-10-2014

Acts Referred:

Citation : 2015 1 CPJ 54

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : K.K.JHA

Judgement

1. THIS revision petition has been filed by the petitioners against the order dated 20.02.2013 passed by the Punjab State Consumer Disputes Redressal Commission, Chandigarh (in short, "the State Commission ") in Appeal No. 1237/2009 - Rana Ranjit Singh Dhillon Vs. M/s. JTPL Townships Pvt. Ltd. & Ors. by which, while allowing appeal of the complainant further compensation was granted.

2. BRIEF facts of the case are that complainant/respondent booked flat with OP/ petitioner and paid Rs.3,00,000/- vide cheque dated 7.4.2006. Construction was to be completed within 6 months from the date of registration, failing which; complainant was entitled to interest @ 10% p.a. OP/respondent did not start construction. Complainant requested OP to refund the amount, but amount was not refunded. Alleging deficiency on the part of OP, complainant filed complaint before District Forum. OP resisted complaint and submitted that complainant has not come with clean hands and suppressed facts. It was further pleaded that complaint was liable to be dismissed due to misjoinder of parties, want of jurisdiction and time barred. It was further submitted that complainant never requested OP for refund of amount otherwise it would have been refunded earlier. It was further submitted that on 14.1.2009, 3 cheques of Rs.1,00,000/- each were sent to complainant for refund of money, but returned back as unclaimed and prayed for dismissal of complaint. Learned District Forum after hearing both the parties, allowed complaint and directed OP 1 & 2 to refund Rs.3,00,000/- with 10% p.a. interest from 8.10.2006 till realization and further

allowed Rs.5,000/- as expenses incurred in personal visits, etc. and further allowed Rs.4,000/- as litigation cost. Appeal filed by the complainant was allowed by impugned order by learned State Commission and further allowed Rs.50,000/- as compensation for harassment and mental agony against which, this revision petition has been filed.

3. HEARD learned Counsel for the petitioner and respondent in person and perused record. Learned Counsel for the petitioner submitted that Rs.4,05,534/- have already been refunded to complainant in October, 2009 in compliance to order of District Forum and even without prayer of compensation for mental agony, learned State Commission committed error in allowing appeal; hence, revision petition be allowed and impugned order be set aside. On the other hand, respondent submitted that order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed.

4. PERUSAL of complaint reveals that complainant claimed refund of Rs.3,00,000/- with interest @ 10% p.a. and further claimed Rs.20,000/- as litigation expenses. Complainant has not claimed any amount for mental agony and harassment. Learned District Forum refused claim for harassment as interest on principal amount was allowed.

5. LEARNED State Commission in para 10 of the impugned order observed that respondent did not offer refund of Rs.3,00,000/- before District Forum which is apparently not correct. Respondent specifically pleaded in the written statement that even for filing complaint amount was refunded by 3 cheques, but were returned as unclaimed. Not only this, respondent refunded amount in October, 2009 in compliance to order of District forum dated 27.7.2009 and complaint was instituted on 2.6.2009. In such circumstances, it cannot be inferred that respondent did not offer refund of deposited amount. Learned State Commission allowed compensation of Rs.50,000/- without any prayer in the complaint. Unless any amount is claimed in the complaint for mental agony and harassment, learned State Commission ought not have allowed compensation of Rs.50,000/- on this count and revision petition is to be allowed.

6. CONSEQUENT LY revision petition filed by the petitioner is allowed and impugned order dated 20.02.2013 passed by the Punjab State Consumer Disputes Redressal Commission, Chandigarh in Appeal No. 1237/2009 - Rana Ranjit Singh Dhillon Vs. M/s. JTPL Townships Pvt. Ltd. & Ors. is set aside and order dated 27.7.2009 passed by learned District Forum in CC No. 260 of 2009 - Rana Ranjit Singh Dhillon Vs. is confirmed with no order as to cost.