
(2015) 12 NCDRC CK 0064

In the National Consumer Disputes Redressal Commission

Case No : 4620 of 2013

M/S. NARNE CONSTRUCTIONS PVT. LTD

APPELLANT

Vs

DR. DEVENDRA SHARMA & 4 ORS

RESPONDENT

Date of Decision : 17-12-2015

Acts Referred:

Citation : 2016 1 CPR 134

Hon'ble Judges : V.K. Jain

Advocate : Bhagabati Prasad Padhy, T. Baskar Gowtham

Judgement

1. The complainants/respondents booked 4 separate plots with the petitioner company in a project called "Rolling Meadows" in Madeenaguda village, Serilingampalle Mandal, Ranga Reddy District, Hyderabad. The respondent no.2 is wife of the respondent no.1, whereas the respondents" no.3 and 4 are their children. 4 separate plots bearing nos. 184, 185, 189 and 190 were allotted to the respondents. The sale price of the plots was agreed at 1400/- per sq. yards. The area of the plots nos.184, 185, 189 and 190 was 330, 311, 311 and 310 sq. yards respectively. The respondents made a total payment of 17,85,345/- to the petitioner which included Rs.34,345/- towards interest for the late payment. The aforesaid payment had been made by 13.10.2001. However, the title deed of the aforesaid plots was not executed in favour of the respondents/complainants and additional payment was demanded from them on account of alleged additional expenditure on carrying out development of the plots. The respondents made additional payment of 8,65,900/- to the petitioner, which wanted to them to make more payment towards cost of additional development. Since the additional charges demanded by the petitioner were not paid, the allotment came to be cancelled vide letter dated 01.08.2008.

2. Being aggrieved the complainants/respondents approached the concerned District Forum by way of a complaint, seeking the following reliefs:- "It is therefore most humbly prayed that this Hon"ble forum may be pleased to direct the opposite party to register plot bearing Nos.184, 185, 189 and 190, situated

at Madeenagudi village, Serilingampalle Mandal, R.R. District in Sy. No.43/part, 44, 47 and 50 in the venture named "ROLLING MEADOWS" in favour of the complainants/nominees of the complainant immediately transferring the rights in the plots.

b) Direct the opposite party to pay an amount of 3,00,000/- each towards the mental agony;

c) Directing the opposite party to pay the costs and expenses of the complaint to the complainants;"

3. The complaint was resisted by the petitioner/opposite party primarily on the ground that the complainants/respondents having failed to make payment of the additional demand raised by it, the cancellation of the allotment was justified.

4. Vide its order dated 27.08.2009, the concerned District Forum directed the petitioner to register the plots in question in favour of the respondents/complainants. The first respondent was directed to bear the registration charges as prevailing in October 2001, whereas the balance of the registration charges were directed to be borne by the petitioner. The petitioner was also directed to pay compensation quantified at 50,000/- and the cost of litigation quantified at 2,000/-.

5. Being aggrieved from the order passed by the District Forum, the petitioner approached the concerned State Commission by way of an appeal. Vide impugned order dated 08.08.2013, the State Commission dismissed the appeal filed by the petitioner, thereby confirming the order passed by the District Forum. Being aggrieved, the petitioner is before this Commission by way of this revision petition.

6. A perusal of the application for membership would show that the price of the plot was agreed at 1400 per sq. yards including development charges. There was no agreement between the parties for payment of any additional amount in case there was escalation in the cost of development of the plot or in case any additional facility was provided in the complex. The petitioner, therefore, was required to deliver the possession of the plots and execute the title deed in favour of the complainants on receiving sale consideration at the rate of 1400/- per sq. yards inclusive of development charges. Admittedly, the complainants paid about 50% more than the agreed sale consideration, the total payment made by them to the petitioner being 26,51,245/- (17,85,345 + 8,65,900). Therefore, the petitioner, in my opinion, was not justified in demanding any further payment and in cancelling the allotment on account of the complainants not making the said additional payment. The orders passed by fora below, directing the registration of the plots in favour of the complainants/respondents therefore cannot be faulted with.

7. As regards registration charges, the learned counsel for the petitioner submits that as per clause 8 of the application for membership, the charges as per the

rates prevailing at the time of registration have to be borne by the allottee and therefore in his submission there was no justification for the State Commission and the District Forum directing the petitioner to pay the increase in the registration charges after October, 2001.

8. It is an admitted position that the plots in question were booked on 07.09.1998. Though no particular time was stipulated in the application for membership, for delivering possession of the developed plots to the complainants, it can hardly be disputed that in the absence of such a stipulation the development was required to be completed and possession was required to be delivered to the complainants within a reasonable time. The payment by the complainants as per clause 6 of the terms and conditions was to be made in installments. The petitioner ought to have started the development work in soon after accepting the booking and there was no justification for not carrying out in development work till receipt of the entire payment from the complainants. There was no stipulation in the membership application that development work will be started by the petitioner only after receiving the entire payment from the purchasers of the plots. Therefore, I find no justification for the petitioner delaying the commencement of the development work.

9. The learned counsel for the petitioner points out that as per para 9 of the terms and conditions, the plots were to be registered after final sanction of layout by HUDA and receipt of complete payment from members. As far as payment is concerned, admittedly, the entire payment as per the agreement between the parties had been made by October 2001. As far as final sanction of layout by HUDA is concerned, in my view, the petitioner cannot penalize the complainants/respondents for the delay in the aforesaid sanction since delay cannot be attributed to any act or omission on the part of the complainants/respondents. In fact, in my opinion, the petitioner should not even have accepted the booking without final sanction of the layout by HUDA. If the petitioner chose to accept booking on the basis of provisional sanction of the layout by HUDA, it is to blame to only itself for the delay, if any, on the part of the HUDA in issuing the final sanction of the layout. The purchaser of the plot, who had nothing to do with the sanction of the layout by HUDA cannot be penalized, by postponing the possession or registration of the plot and therefore any escalation in the registration charges on account of delay in final sanction of layout by HUDA must necessarily be borne by the builder and not by the allottee of the plot.

10. The learned counsel for the petitioner states that vide several letters, they had offered registration of the plots to the complainants and having failed to avail the offer, the complainants cannot insist on the petitioner bearing the escalation in the registration charges. A perusal of the letters sent by the petitioner to the complainants would show that there was no conditional offer to register the plots in favour of the complainants and the petitioner was demanding additional payment as per the statement of account attached to the letters, as a pre-condition for registration of the plots in favour of the

complainants. Since the aforesaid additional demand was not justified, the complainants obviously could not have made the said payment. Hence, the petitioner, which postponed the registration by its own act of demanding additional payment from the complainants cannot hold the complainants responsible for the increase in the registration charges.

11. The learned counsel for the petitioner submits that there was no justification for directing the payment of compensation, when the petitioner had been directed to bear the escalation in the registration charges. Again, I find no merit in the contention. The compensation has been awarded on account of deficiency on the part of the petitioner company in rendering services to the complainants. Moreover, as a result of unjustified and unlawful demand raised by the petitioner for possession and registration of the plots in favour of the complainants has been reasonably delayed for a number of years. Therefore, the compensation awarded by the District Forum and upheld by the State Commission, in my view, is justified.

12. For the reasons stated hereinabove, I find no merit in the revision petition and the same is accordingly dismissed with no order as to costs.