
(1999) 04 NCDRC CK 0038

In the National Consumer Disputes Redressal Commission

Radhika Kapur

APPELLANT

Vs

DLF Universal Ltd.

RESPONDENT

Date of Decision : 23-04-1999

Acts Referred:

Citation : 2000 2 CLT 170 : 2000 2 CPC 106 : 2000 3 CPJ 17 : 2000 3 CPR 467

Hon'ble Judges : A.N.Divecha , R.K.Anand J.

Final Decision : Application dismissed

Judgement

1. THE applicants/complainants have approached this Commission under Section 36B(a) of the Monopolies and Restrictive Trade Practices Act, 1969 (the MRTP Act for brief) charging the respondent with adoption of and indulgence in unfair trade practices falling within the purview of Section 36A thereof. THE applicants/complainants have also made an interim relief application under Section 12A thereof for certain interim reliefs inter alia restraining the respondent from cancelling the allotment of the Apartments bearing Nos. 305-B, 405-A and 405-B (the disputed apartments for convenience) in DLF Beverley Park, Gurgaon for non-payment of the extra amount sought from the applicants / complainants by its letter of 2nd June, 1997.

2. IT would be quite proper to look at certain facts in order to appreciate rival submissions urged before us. The applicants/complainants appear to have booked apartments in Beverley Park, the construction of which was undertaken by the respondent. They have been allotted the disputed apartments. IT appears that the respondent has demanded some more money from the applicants towards the escalated cost of the disputed apartments. Thereupon the applicants/complainants have approached this Commission under Section 36B(a) of the MRTP Act charging the respondent with adoption of and indulgence in unfair trade practices within the meaning of Section 36 A thereof. As aforesaid, the applicants/complainants have also taken out an application under Section 12A thereof for claiming certain interim reliefs. The respondent has filed its reply to the interim application and has resisted it on several grounds. In the course of

hearing on behalf of the respondent, a statement was made to the effect that the respondent shall not cancel the allotment of the disputed apartments made in favour of the applicants/complainants till the hearing and disposal of this interim relief application. Learned Advocate Mr. Aditya Narain for the respondent informs us that the aforesaid statement by way of undertaking on behalf of the respondent will continue till the main matter is heard and finally disposed of subject to reservation of the liberty in favour of the respondent to move this Commission for release of the respondent from such undertaking if the matter pending before the Hon"ble Supreme Court inter alia against the order of stay of cancellation of allotment is decided in its favour. In view of this undertaking, it is not necessary to grant any relief as to stay of cancellation of allotment of the disputed apartments. If any breach is made of the aforesaid undertaking, it is obvious that the respondent will have to face the music.

So far as the other interim reliefs claimed in this interim relief application are concerned, they cannot be granted at this stage. The reason therefore is quite simple. One of the interim reliefs relates to stay of the extra charges levied by the respondent qua the disputed apartments by its order of 2nd June, 1997. Whether or not the levying of extra charge amounts to unfair trade practice is to be decided at the stage of final hearing. In view of the aforesaid undertaking by and on behalf of the respondent, the allotment of the disputed apartments made in favour of the applicants /complainants would not be cancelled on account of non-payment of the extra charges levied by and on behalf of the respondent qua the disputed apartments by the letter of 2nd June, 1997. The applicants/complainants are thus sufficiently protected against cancellation of allotment of the disputed apartments for non-payment of the extra charges in question.

3. ONE more interim relief prays for restraining the respondent from raising any demand in future except the amount for the stamp duty for the sale deed at the time of handing over the possession of the apartment. The same reasoning would be applicable qua the interim relief referred to in the preceding paragraph of this order. We do not propose to burden this order by repeating whatever is said therein. One more interim relief claimed is to the effect of directing the respondent to disclose the details of the payment the respondent is demanding from the applicants/complainants and to provide a copy of the application filed with the Government authorities for obtaining approval. This would pertain to the evidence to be led at trial. Such direction cannot be given at this stage. We do not think that we should dilate upon this aspect in detail in order not to prejudice the rival contentions between the parties at the stage of their going to trial.

4. IN view of our aforesaid discussion, we are prima facie of the view that no interim relief at this stage can be granted, more particularly when the applicants/complainants are protected against cancellation of allotment of the disputed apartments made in their favour by the respondent on account of non-payment of the extra charge levied qua the disputed apartments by the respondent. In the result, this interim relief application fails. It is hereby rejected, however, with no

order as to costs on the facts and in the circumstances of the case. Application dismissed.