
(2004) 12 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

RAGINI PARDHI

APPELLANT

Vs

RAMAN PACHCHIGAR

RESPONDENT

Date of Decision : 16-12-2004

Acts Referred:

Citation : 2005 2 CLT 441 : 2005 2 CPC 100 : 2005 3 CPJ 456

Hon'ble Judges : N.K.Jain , B.L.Khare , Pramila S.Kumar J.

Final Decision : Appeal dismissed

Judgement

1. BY the order impugned the District Consumer Disputes Redressal Forum, Balaghat has dismissed complaint of the appellant filed against respondent, an architect claiming compensation of Rs. 2,87,000/- from the latter.

2. APPELLANT with a view to construct a Nursing Home at Balaghat got a map and drawing for the same, prepared by the respondent working at Gondiya (Maharashtra). The grievance of the complainant was that the respondent though not qualified to prepare drawings, prepared drawing for a four storeyed (G + 3) building. The complainant also got the foundation of the building laid as per drawing prepared by the respondent. However, later on it was discovered that the foundation so laid was wholly insufficient to construct a four-storeyed building. She was thus required to get the drawing reprepared and demolish the foundation work already carried out. She thus attributed deficiency to the respondent and claimed compensation Rs. 2,87,000/- from the latter. The complaint was resisted by the respondent and it was contended that the map was got prepared only for two-storeyed (G + 1) building and the drawings were also prepared accordingly. There was no deficiency on his part in preparation of the map and the drawing. The Forum below after taking evidence of the parties dismissed the complaint, thus giving rise to this appeal.

On our direction the complainant for the first time produced the map sanctioned by the local Municipality for construction of the building in question. From the sanctioned plan it was found that sanction was accorded only for G + 1 structure. It is significant to note that the respondent-architect also prepared map only for

two-storeyed (G + 1) building. Obviously, there was no occasion for the respondent to prepare drawings for a four-storeyed building which was never contemplated. Although in the drawings at the corner of the sheet, the words G + 3 are noted. But, this is not sufficient to indicate that the drawings were prepared for four-storeyed building which was never contemplated nor any sanction was obtained by the respondent for construction thereof. So even if we go by the evidence led by the complainant, no deficiency can be attributed to the respondent in the matter.

3. THE complaint deserved dismissal even of the ground of maintainability. THE contract in question for preparation of map and drawing was entered into between the parties at Gondiya and the consideration was also paid to the respondent at Gondiya. THE respondent resides and works for gain at Gondiya. Under the circumstances as mandated by Section 11 of the Consumer Protection Act, 1986 the complaint ought to be filed at Gondiya and the District Forum Balaghat had no jurisdiction to entertain the same. THE order of dismissal is supportable on this ground also. This appeal thus fails and is dismissed but with no order as to costs. Appeal dismissed.