

(1993) 01 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

RAJASTHAN STATE INDUSTRIAL INVESTMENT And
DEVELOPMENT CORPORATION LTD

APPELLANT

Vs

SATISH GOPLANI

RESPONDENT

Date of Decision : 30-01-1993

Acts Referred:

Citation : 1993 3 CPJ 1329 : 1994 2 CPR 1

Hon'ble Judges : S.K.Mal Lodha , Damodar Thanvi , Saria Khan J.

Final Decision : Appeal allowed

Judgement

1. AGAINST the order dated 17.1.92 passed by the District Forum, Kota in Complaint Case No. 540/91 the opposite parties-appellants have filed this appeal under Sec.15 of the Consumer Protection Act, 1986 ("the Act" herein). By the impugned order the District Forum ordered for delivery of possession and execution of the lease deed in respect of an industrial plot No. H.1-327(G). Facts leading to this appeal lie in a very narrow compass. The complainant-respondent filed a complaint against the opposite parties-appellants under Sec. 12 of the Act which was registered as Complaint Case No. 540/91. It was alleged by the complainant that on his application on 18.4.90 he was allotted an industrial plot No. H-1-327G. The plot was allotted for starting a factory for manufacturing cement pipes and poles. The complainant deposited Rs. 5,500/- being 25% of the amount that very day and rest of 75% of the amount was to be deposited within a period of 90 days. The complainant failed to deposit the rest of the amount and thereafter a notice was received from the opposite parties to file a reply within 15 days to show cause why the allotment be not cancelled. The complainant submitted a pay order dated 25.4.91 for Rs. 17,500/-. The application of the complainant was, however, rejected on 8.7.91. The complainant was given an offer that plot can be allowed to remain with him if he is prepared to deposit the amount as the prevailing rate of Rs.60/- per sq. mtr. Subsequently, the allotment was totally cancelled. The complainant filed the complaint praying that opposite parties Nos. 1 & 2 may be directed to realise from the complainant the cost at the old rate so that the complainant may not be

financially burdened.

2. THE opposite parties contested the complaint. It was submitted that under the terms of the allotment the complainant was bound to deposit the balance of 75% of the amount within 90 days to be counted from 18.4.90. As he failed to deposit that amount the allotment stood cancelled and subsequently cancellation order was issued on 9.9.90. THE District Forum allowed the complaint by its order dated 17.1.92 and gave the following directions:- (1) that the opposite parties should charge 19% p.a. penal interest for the delay in deposit of the amount upto 20.4.91 and that this amount should be accepted by the opposite parties-appellants within one month of the impugned order.

(2) that thereafter within a period of further one month the appellants should deliver the possession of plot No. H-1-327(G) and execute the lease deed in favour of the complainant. (3) that Rs. 1500/- were awarded to the complainant as compensation. Aggrieved the opposite parties have filed this appeal.

On behalf of the respondent Shri Sobhag Mal Jain, Advocate appeared on 17.11.92. The next date fixed for arguments is today. Today, nobody on behalf of the respondent has appeared and, therefore, arguments of Mr. Ram Raj Lal Gupta, Advocate, for the appellants were heard. Learned Counsel for the appellants argued that the complainant is not a consumer as defined in Sec. 2(1)(d) of the Act. It was contended that the complaint of the complainant does not fulfill the ingredients mentioned in Sec. 2(1)(c) of the Act and that the reliefs which the complainant has prayed for could not be granted under Sec. 14(1) of the Act and that the District Forum erred in granting the relief beyond Sec. 14(1) of the Act. On merits it was submitted that there was breach of the terms and conditions for the allotment of the plot and as there was breach of the terms of allotment, there was nothing wrong when the allotment was cancelled.

We have carefully considered the record and the order under appeal in the light of the submissions made by the learned Counsel for the appellants. The questions which are involved in this appeal arose before the National Commission in M/s. Srikrishna Oil & Metal Industries v. The Secretary, Rajasthan State Industrial Development & Investment Corporation (First Appeal No. 275/91 decided on 9.7.92). The National Commission observed as follows in that case:- "This is a case of allotment of immovable property and not of goods, and therefore, the complaint is not covered by the Consumer Protection Act, 1986. There is also merit in the contention of the respondents that the allotment of the plot was for a commercial purpose."

It is clear from M/s. Srikrishna Oil & Metal Industries case (supra) that the complaint related to the allotment of immovable property and not of goods and, therefore, it was not covered by the Consumer Protection Act, 1986. Apart from that the reliefs which the District Forum has granted to the complainant are not covered by Sec. 14(1) of the Act. Sec. 14(1) reads as follows:- "14. Finding of the District Forum. -If, after the proceeding conducted under Sec. 13, the District

Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to take one or more of the following things, namely :- (a) to remove defect pointed out by the appropriate laboratory from the goods in question; (b) to replace the goods with new goods of similar description which shall be free from any defect; (c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant; (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party."

3. IT is firmly settled by decisions of the National Commission that the redressal forums established under the Act can grant only reliefs under Sec. 14(1) of the Act and not beyond that. Reference in this connection may be made to 1991 CSMR CAS 33, 1991 CSMR CAS 45 and 1991 CSMR CAS 41 and Union of India v. Chairman, Madras Provincial Consumers Association, II (1992) CPJ 524 (NC), (Revision Petition No. 55/92 decided on 13.10.92). The District Forum exceeded its jurisdiction when it granted the reliefs mentioned in the last para of the impugned order, for, it had no jurisdiction to grant these reliefs. In view of what has been stated above, we do not consider it necessary to examine the other contentions raised by the learned Counsel for the appellants. For the aforesaid reasons we are constrained to allow this appeal and set aside the order dated 17.1.92 passed by the District Forum, Kota in Complaint Case No. 540/91. The complaint filed by the complainant-respondent shall stand dismissed. The appeal is allowed and the order under appeal is set aside. The complaint filed by the complainant-respondent shall stand dismissed. As the respondent has not appeared, there will be no order as to costs. Appeal allowed.