

(1992) 09 NCDRC CK 0007

In the National Consumer Disputes Redressal Commission

ROCKLAND LEASING LIMITED

APPELLANT

Vs

SARASWATI DEVI

RESPONDENT

Date of Decision : 18-09-1992

Acts Referred:

Citation : 1992 3 CPJ 418 : 1993 0 CPC 112 : 1993 1 CPR 81 : 1994 1 CLT 260

Hon'ble Judges : R.N.Mittal , B.L.Anand , Avtar Pennathur J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed against the impugned order passed by the learned District Forum. The brief facts of the case are that one Smt. Saraswati Devi had applied for a loan of Rs. 50,000/- for construction of a house to the appellant. She paid a sum of Rs. 2,500/- as Registration Fee on 11.3.86. Prior to the sanction of the loan the appellant demanded a sum of Rs. 5,000/- more for creation of a personal fund. Smt. Saraswati Devi, the complainant before the District Forum, was unable to pay this amount of Rs. 5,000/- and she withdraw her application for loan and requested the opposite party to refund the deposit of Rs. 2,500/- made by her as registration fee after deducting 10% as cancellation charges which was according to the condition No. 6 of the terms and conditions prescribed in the brochure of the appellant. The appellant M/s. Rockland Leasing Ltd., were, however, prepared to refund Rs. 1,750/- out of the registration amount of Rs. 2,500/- and they deducted an additional amount of Rs. 500/- as security fee in addition to the cancellation fee of Rs. 250/-.

2. THE learned District Forum, vide their impugned order directed the appellant company to pay Rs. 2,250/- to Smt. Saraswati Devi, the respondent before us, alongwith the interest at the rate of 18% p.a. from the date of cancellation till the date of payment and Rs. 200/- as costs of litigation. We have heard the parties at length and also examined the records of the learned District Forum. The appellant has agitated only on two accounts viz. the (i) directions of the learned District Forum for paying the interest at 18% and their orders for awarding the costs of Rs. 200/-. The only argument in support of this contention

as advanced by the appellant was that their scheme did not provide for the payment of such interest.

We have gone through the brochure issued by the appellant company under the heading other terms and conditions of the said brochure. It has been mentioned at S. No. 6 that no withdrawal from the scheme is permitted normally. In special circumstances the company may consider request for withdrawal and in such case a deduction equal to 10% of the registration amount shall be made and the balance refunded without interest. We have also gone through the plaint submitted by the complainant before the District Forum. It has been clearly mentioned by her that after cancellation of the application she had asked the company for the refund after deducting Rs. 250/- out of the registration fee of Rs. 2,500/- which was exactly as per terms of the brochure at para 6 reproduced above. It is on record that the appellant company did not refund the amount on the above mentioned terms which would have come to Rs. 2,250/-. On the contrary they insisted for deduction of another sum of Rs. 500/- as security fee charges which was in violation of the terms and conditions as stipulated by the appellant company themselves. The respondent before us and the complainant before the District Forum had requested the District Forum for directing the company to pay Rs. 2,250/- together with interest thereon. It has been wrongly alleged by the appellant that the complainant had not prayed for the interest before the District Forum. Even otherwise it is not the case of the appellant that the total amount of Rs. 2,250/- was not utilised by them all along and they have not enjoyed the benefits of this amount.

3. IN our view the learned District Forum was justified in allowing the interest @ 18% on the unpaid amount of Rs. 2,250/-. IN case the appellants were clean in their approach they could have easily returned this amount in the first instance when the registration was cancelled by the opposite side which they failed to do. We also find that the cost of Rs. 200/- awarded was also done to meet the ends of justice as they were forced to file the complaint by the respondent. Moreover, the question of awarding cost is a matter of discretion of the Court. IN our view the discretion has not been exercised improperly by the learned Forum even no arguments or reasons have been advanced by the appellant against their views on this item. In the light of the above discussed facts we hold that the appellant has not brought forth any fresh point which could convince us to interfere with the order passed by the District Forum. Consequently, the appeal stands rejected. No order as to costs. Appeal dismissed.