
(2000) 05 NCDRC CK 0057

In the National Consumer Disputes Redressal Commission

R.P.BEDI

APPELLANT

Vs

Haryana State Industrial Development Corporation Ltd.

RESPONDENT

Date of Decision : 10-05-2000

Acts Referred:

Citation : 2000 1 CPC 541 : 2000 2 CLT 155 : 2000 3 CPJ 571

Hon'ble Judges : J.B.Garg , P.K.Vasudeva , Devinderjit Dhatt J.

Final Decision : Complaint dismissed

Judgement

1. BRIEFLY the facts are that Shri Ashok Mohan and his wife Smt. Veena Devi were owners of residential plot No. 314, Mansa Devi Complex, Sector 4, Panchkula. They had obtained loans from Haryana State Industrial Development Corporation Ltd. (HSIDC) and to enable to satisfy the loan the plot, which was under mortgage, was auctioned in accordance with an advertisement published in the Tribune dated 22.3.1998. The complainant purchased the aforesaid plot by giving the highest bid by submitting a tender on 25.3.1998 for Rs. 25,12,000/- and deposited a sum of Rs. 11,48,000/- and a further sum of Rs. 4,78,682/-, totalling to Rs. 16,26,682/-. It has been averred that the complainant had been sending reminders dated 2.5.1998, 3.6.1998, 1.7.1998, 11.9.1998, 9.11.1998, 10.11.1998, 28.11.1998, 24.12.1998 and 8.1.1999, yet possession of the aforesaid plot has not been delivered to him though it should have been delivered immediately on payment of 25% of the price. The relief claimed in the complaint, instituted on 8.2.1999, is briefly mentioned as under : (1) Refund of Rs. 16,26,682/- deposited with respondent-Corporation. (2) Interest @ 27% p.a. till date of refund. (3) A compensation of Rs. 2.50 lacs and costs Rs. 20,000/- on account of deficiency of respondent.

2. HARYANA State Industrial Development Corporation Ltd. (for short HSIDC), the sole respondent impleaded filed a reply wherein there are several preliminary objections such as that the complainant is not a "consumer" because the respondent is not engaged in the activity of allotment of residential plots and renders no service regarding residential plots. It has further been averred that

the original allottees were Shri Ashok Mohan and his wife Smt. Veena Devi and the plot in question was mortgaged as a collateral security with the respondent-Corporation with the permission of HARYANA Urban Development Authority who is first charge-holder. Besides an agreement has been executed between the parties on 13.8.1998 wherein it has been specifically mentioned that in the event of any dispute, it shall be referred to an Arbitrator. The complainant has not impleaded HARYANA Urban Development Authority (HUDA) as respondent. The proceedings dated 12.12.1997 still require transfer of the plot in favour of the complainant with the permission of HUDA. Even otherwise the respondent had been ready and willing to hand over the possession of the plot to the complainant. As the process of transfer is still pending with the HUDA the complaint is pre-mature. The market of the real Estate has gone down and the complainant wants to get rid of the Agreement to Sell. It has specifically been averred that the terms and conditions of the Agreement to Sell were well-settled and understood by the complainant and only thereafter the complainant signed the agreement. It shall be useful to refer to the advertisement given by the HSIDC in the newspaper and it is reproduced below : H.S.I.D.C. TENDER NOTICE RESIDENTIAL PLOT FOR SALE. HSIDC offers for sale a residential plot No. 314, measuring one Kanal (Approx.) in Urban Estate, Mana Devi Complex, Sector 4, Panchkula. The said plot has been taken over by HSIDC under Section 29 of State Financial Corporation's Act which was given as security by the owner against the term loan advanced to M/s. A.M. Oil and Fats Limited, Barwala, Panchkula. Terms and Conditions-(1) person(s) interested in participating in the purchase of plot through tenders are required to deposit Rs. 50,000/- as earnest money in the shape of Demand Draft payable at Chandigarh alongwith the tender. Tender shall be submitted latest by 25.3.1998 at address given below. (2) The successful party will be required to pay 10% of the amount through Demand Draft in favour of HSIDC, payable at Chandigarh within 24 hours of acceptance and 15% amount within 30 days from the date of acceptance of offer. The balance 75% amount can be paid in eight quarterly instalments with interest applicable to SSI Unit presently 17.5% p.a. Payment by cheques will not be accepted. Further if the successful party fails to comply with the conditions of sale the earnest money and the amount deposited shall be forfeited. (3) The plot offered for sale is at "As is where is basis". Note : The Corporation reserves the right to accept or reject even the highest offer/tender or withdraw the plot from the sale without assigning any reason."

The HSIDC, the respondent, advances money mainly for industrial purposes. The original owner of this plot was HUDA which is an Organisation for providing suitable dwelling units to deserving applicants. Shri Ashok Mohan and Smt. Veena Devi were the original allottees from HUDA. Once they mortgaged the residential plot to HSIDC, the respondent became a transferee. When this transferee sold the plot in question to the complainant and that too by tender, the complainant in other words is a second transferee.

3. THE learned Counsel for the respondent has drawn our attention to Section

15(6) of the Haryana Urban Development Authority Act, 1977 which is as under :
"15. Disposal of land-(1)-(5) xxx xxx (6) Until the conditions provided, in the regulations are fulfilled, the transferee shall not transfer his rights in the land or building except with the previous permission of the Authority, which may be granted on such terms and conditions, as the Authority may deem fit."

It was not a case where previous permission of HUDA was obtained by the original allottee and by the respondent for transfer of the plot in favour of the complainant. Besides this Commission itself cannot legalise a transaction made by the Corporation in favour of a person who is not a "consumer" qua the respondent. Some time back vide letter No. 1067 dated 2.2.1999 (in Hindi) addressed to the complainant the Estate Officer, HUDA Panchkula Annexure XIII/2 declined to recognise the transfer of plot between the respondent and the complainant. It is not the function of the respondent-Corporation to provide residential plot or dwelling unit and thus the complainant himself is a second transferee. However, during the pendency of this complaint, when the respondent itself took the matter with HUDA a certificate of allotment has been issued by HUDA, Panchkula in the form of a "Re-allotment letter" dated 13.8.1999. The complainant is supposed to abide by terms and condition Nos. 1 to 20 mentioned in this letter of allotment and a fresh extension fee has also been demanded. The complainant is dis-satisfied with this allotment letter.

4. MR. Bhandari, learned Counsel for the complainant has urged that the complainant should not be considered a kind of "re-allottee" and he should be declared a purchaser and full owner. As seen above, neither HUDA has been impleaded nor the original allottees have been impleaded nor it is known here as to what was the price paid at the time of allotment and since there are a large number of questions of fact and law and as observed above, the complainant is not a consumer, the relief of declaration or refund of part of bid money deposited and interest etc. is not maintainable here. The complaint fails and is hereby dismissed. Complaint dismissed.