(1995) 05 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

SAMACHAR VIHAR SEHKARI AVAS SAMITI LTD. APPELLANT

Vs

GHAZIABAD DEVELOPMENT AUTHORITY RESPONDENT

Date of Decision : 19-05-1995

Acts Referred:

Citation : 1995 0 NCDRC 90 : 1995 2 CPC 232 : 1995 2 CPJ 168 : 1995 2 CPR 405

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , S.S.CHADHA , S.P.BAGLA J.

Advocate : Surendra Gandhi , GIRISH CHANDRA

Judgement

1. IN this complaint, the complainant-Sanchar Vihar Sehkari Avas Samiti Ltd. which is a society/company, having about 200 persons, has alleged that the Ghaziabad Development Authority has not put them in possession of the plots within the stipulated period as prescribed in Rule 15 of the brochure issued by the Authority. In addition, the Authority has charged interest which is contrary to Rule 3.50 of the brochure as these plots have been registered under the Self Financing Scheme. It has been further alleged that the Authority has also charged penal interest for delay in the payment of the instalments. Based on these allegations the complainant has requested for the following relief:" (i) That the Ghaziabad Development Authority-Opposite Party herein, may be directed to give possession of the duly developed plots within three months from the date of order of this Commission; (ii) Refund the amount of Rs. 26,70,246.00 recovered towards the interest and penal interest on the instalments; and (iii) Pay the interest at the rate of 18% per annum on the amounts deposited with the Opposite Party w.e.f. April, 1992.

The Ghaziabad Development Authority in their reply has stated that the plots had been allotted to the Complainants on 16.3.1994 and the letters of allotment have also been sent to them.

2. AS regards charging of interest, the Authority has stated in their reply that Clause 3.50 of the brochure relates to flats and houses built under Self Financing

Scheme. The said Clause, according to the Authority, does not apply to plots. They have also referred to Column 9 of Annexure-1 of the brochure where it has been mentioned that the balance amount is to be recovered in five years with 14% interest. We have carefully perused the brochure and find that Rule 3.50 makes no distinction between the houses and plots. In any case this rule clearly states that no interest is payable instalments under the Self Financing Scheme. Column 9 in the table in Annexure-1 cannot override the rule as mentioned in Rule 3.50. We therefore, of the view that interest cannot be charged from those who applied for the plots under Self Financing Scheme.

3. AS regards penal interest, the relevant rule is 3.60 which provides that penal interest will be charged at the rate of 18% per annum along with the payable amounts, in case the payment is not made within the prescribed time. This rule does not make any distinction been the hire purchase or the Self Financing Scheme and therefore, the Authority charged the penal interest for the delayed payment correctly.

4. IT is mentioned in Rule 15 of this brochure that the plots/houses are expected to be completed within two years. The registration for this scheme opened on 2.10.1988 and closed on 31.10.1988. From the record we find that the last instalment was paid by the Complainants on 12.11.1992. In any case in Rule 15 the Authority only expressed its intention by way of expectation to complete the plots within two years without indicating as to from which date this period of two years will be calculated. If we take this period of two years from the date of last instalment, it comes to somewhere in November 1994 when the allotment has been made to the Complainants. The Complainants have also requested for the award of interest at the rate of 18% per annum on the amount deposited with the Opposite Party w.e.f. April, 1992 as well as damages to the tune of Rs. 5.00 lakhs towards the delay caused in giving possession as stipulated in Rule 13.10.

5. WE have gone through the records of the case and heard the Counsel for the complainant as well as the Opposite Party. After taking the facts and circumstances of this case into consideration we feel that where as there is no ground for awarding any interest or damages, there is sufficient force in the contention that the interest amounting to Rs. 25,37,669/-as indicated in the complaint should not have been charged in view of Rule 15 which is quite unambiguous in respect of instalments under Self Financing Schemes. However, the Authority is within its rights to charge penal interest for the delay in the payment of instalments. We therefore, direct that the interest charged at the rate of 14% on the basis of Column 9 of table 1 in Annexure-1 should be returned as it is contrary to the scheme under Self Financing. The complaint is allowed to this extent namely that the interest amount so calculated and recovered be returned back to the Complainant. There is no order as to costs.

