
(2005) 11 NCDRC CK 0016

In the National Consumer Disputes Redressal Commission

Sankaran

APPELLANT

Vs

SECRETARY, HOUSING SOCIETY

RESPONDENT

Date of Decision : 25-11-2005

Acts Referred:

Citation : 2006 1 CPJ 590

Hon'ble Judges : K.Sampath , R.Vanaroja , PonGunasekaran J.

Final Decision : Appeal dismissed

Judgement

1. THE complainant in O.P. No. 166/97 on the file of the District Consumer Disputes Redressal Forum, Tirunelveli, is the appellant. His case was as follows: he had a house allotment under hire purchase agreement from the opposite party. He was to pay the sale price in instalments for 25 years. His monthly dues had been deducted from his salary and credited to the opposite party. This was the situation till he retired on 31.12.1986. After his retirement, he was paying the instalments regularly. But the opposite party failed to collect the monthly dues and default, therefore, occurred. In 1989 he had to pay Rs. 1,950.67. After 1989 after the payment for 29 months the balance ought to be Rs. 732.67, but in the letter of the opposite party dated 8.12.92 the balance was stated to be Rs. 2,405.42. THE complainant sent a reply disputing the amount due. On 11.4.94 the complainant presented a complaint to the Committee. On 10.6.94, the Deputy Registrar of Co-operative Societies sent a reply. THE complainant paid Rs. 163 and it was accepted by the opposite party vide letter dated 7.8.96. Even after that the complainant was not given possession of the property. THE opposite party, by letter dated 30.4.97 stated that the balance due was Rs. 2,490.50. This was totally incorrect. THE complaint, therefore, came to be filed.

2. THE opposite party resisted the complaint stating in particular that after adjusting the payments made and the share capital of Rs. 1,400 of the complainant, there were still amounts due as claimed by the opposite party. THE complainant himself had filed an insolvency petition in I.P. No. 1/98 before the Sub-Court, Ambasamudram, where he had admitted that he owed around a sum

of Rs. 3,000 to the Society. In such circumstances, it was not open to the complainant to dispute the figure given by the opposite party. Exs. A-1 to A-14 were marked on the side of the complainant and Ex. B-1 was marked on the side of the opposite party.

The District Forum found that the case put forward by the opposite party was true and correct and this was particularly so having regard to the complainant's very stand in the insolvency petition stating that he had to pay around Rs. 3,000 to the opposite party. This insolvency petition had been filed on 12.12.97. The District Forum found that after the said date, there was nothing to show that any further payment was made by the complainant. Ex. B-1 is the Xerox copy of the insolvency petition No. 1/98 filed by the complainant before the Sub-Court, Ambasamudram. In such circumstances, the District Forum found that the complaint was mis-conceived and dismissed the same. It is as against this the present appeal has been filed.

3. FROM the narration above, it would be amply clear that the complainant had come forward with a false case. When even according to him in the insolvency petition he was owing a sum of Rs. 3,000 to the opposite party Society, it was highly improper on his part to have said that only a very small amount was due from him to the Society and that the opposite party was guilty of deficiency in service in not handing over the property to him. There are absolutely no merits in this appeal. We, therefore, confirm the order of the District Forum. The appeal is dismissed. No costs. Appeal dismissed.