

(2007) 01 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

SARASWATI KUNJ CO-OPERATIVE HOUSE BUILDING SOCIETY
LTD

APPELLANT

Vs

RAJINDER KUMAR AGGARWAL

RESPONDENT

Date of Decision : 11-01-2007

Acts Referred:

Citation : 2007 2 CPJ 134

Hon'ble Judges : R.C.Kathuria , Shakuntla Yadav J.

Advocate : S.P.Singh

Judgement

1. THIS appeal is directed against the order dated 25. 8. 2003 passed by the District Consumer Disputes Redressal Forum, Gurgaon whereby while accepting the complaint of the respondent-complainant, directions have been given to the appellant-opposite party to deliver the possession of the plot to the complainant without any further delay.

2. IN order to focus the controversy involved in the present appeal few facts need to be noticed briefly. The complainant as a member of the opposite party-Cooperative Housing Building Society had deposited Rs. 1,93,750 vide receipt No. 51 dated 30. 4. 1995 for the allotment of a plot measuring 250 sq. yards in phase-I of the so-called Society in pursuance to the demand made by the opposite party as per letter dated 18. 3. 2005. The opposite party had allotted plot No. 719 to the complainant vide letter dated 31. 7. 1995 and had also issued share certificate in his favour on 31. 8. 1995. The plot was to be allotted to the members of the Society on first come first serve basis. The grievance of the complainant is that the opposite party had failed to follow the above stated principle and had allotted the plots to the members who had become members of the Society subsequent to the complainant. It was also alleged that the cost of the construction had escalated and he would have to incur extra expenses on building material and cost of labour for which he had suffered a loss of Rs. 50,000. Under these circumstances it was prayed in the complaint that the opposite party be directed to deliver the possession of the plot to him

immediately and to pay the above stated compensation amount to him. On notice the opposite party filed a detailed reply. It was not disputed by the opposite party that the complainant was a member of Society and had deposited a sum of Rs. 1,93,750 for the allotment of 250 sq. yards plot in Phase-I. At the same time while disputing the claim of the complainant it was averred that the allotment of the plot was made to the complainant tentatively and probably the plot of the complainant falls in Part-II of Phase-I for which licence had been received from the Director, Town and Country Planning, Haryana, Chandigarh vide licence No. 1 of 2000 and, thereafter, development work had been taken up in full swing which was likely to be completed in coming months and after obtaining the NOC from the HUDA, the plots would be handed over to the allottees. It was also stated that they had not delivered the possession of any plot to any allottee in Part-II in Phase-I. Accordingly, it was prayed that the complaint merited dismissal. The District Forum as per order while rejecting the version of the opposite party issued the directions as per order dated 25. 8. 2003 noticed above. Aggrieved by the order of the District Forum, the present appeal has been filed. None has chosen to argue the matter from the side of the appellant-opposite party at the time of arguments. Learned Counsel representing the respondent-complainant has been heard at length. There is no factual dispute on record. The opposite party has not disputed that the complainant had paid Rs. 1,93,750 vide receipt No. 51 dated 30. 4. 1995 for the allotment of 250 sq. yards plot in Phase-I as per scheme formulated by the opposite party. The opposite party has also admitted that the plot of the complainant is located in Part-II of Phase-I of the Society and after making development of the plots on the allotted land made by the HUDA, the development work had been undertaken and process of making delivery of possession of the plots in Part-II of Phase-I had already been started. The present complaint was filed on 9. 5. 2000. So upto that date a period of five years had lapsed but the possession of the plot was not given to the complainant. Under the circumstances of the case, no fault can be found with the directions given by the District Forum in the impugned order.

For the aforesaid reasons, there is no merit in the appeal and the same is consequently dismissed. Appeal dismissed.