

(1993) 04 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

SAY AD MUZAFFAR HUSSAIN

APPELLANT

Vs

MANAGING DIRECTOR, ROCLAND LEASING LTD.

RESPONDENT

Date of Decision : 19-04-1993

Acts Referred:

Citation : 1994 1 CPC 70 : 1994 1 CPJ 399 : 1994 2 CPR 478

Hon'ble Judges : K.S.Varma , S.P.Goyal , Vidya Sonker J.

Final Decision : Complaint allowed

Judgement

1. THIS complaint has been moved before State Commission for reliefs enumerated in paragraph 13 of the complaint. The facts of the case are that the Complainant approached the Opposite Party for renovation of a building belonging to him which stood in a dilapidated condition. In order to make better use of the property, the Complainant approached the Opposite Party for making construction after demolition of the building and for construction in such a way as to enable him to earn more profit out of the said property. The complaint indicates the terms and conditions on which the opposite party agreed to make constructions. In paragraph 18 of the Complaint, it has been stated that by letter dated 1st August 1991, the opposite party asked the Complainant to obtain decree in respect of the house in question as against the previous owners or his heirs so that there was no dispute in regard to title. In para 19 of the Complaint it is stated that the Complaint on 14th September 1991 filed a suit in the Court of Civil Judge, Agra which was ultimately decreed in his favour. The Complainant then gave a copy of the decree to the Opposite Party as desired by them. In paragraph 12 of the Complaint it is stated that he was called upon by the opposite party to deposit a sum of Rs. 10,000/- and Rs. 1,25,000/- and assured that necessary formalities for the construction of the house have been fulfilled. The said amount was paid by the Complainant to opposite party on 26th April 1991. In spite of deposits so made the Opposite Party did not start construction of the house. In this way the Complainant has claimed Rs. 1,25,000/- with interest 18 % per annum from the date of deposit and has also claimed refund of Rs. 10,000/- at the same interest and has further claimed Rs. 25,000/- as

damages.

2. IT appears that inspite of service the Opposite Party did not put in appearance and the case proceeded ex-parte against him. IT is to be noted that the Complainant filed by the Complainant is supported by an affidavit to which no counter affidavit has been filed. IT is thus obvious that the allegations in the Complaint which are supported by affidavit stand uncontroverted. On a perusal of the facts indicated and the documents filed in support of the claim it appears that the opposite party undertook the service of renovation of the building in question on certain terms and conditions. We are of the view the complainant agreed to utilise the services of the opposite party for consideration. It is thus obvious from the uncontroverted facts that under provisions of C.P.A. 86 Complainant is consumer within the meaning of the Act.

In this background of the above facts, we hold that complainant is entitled to Rs. 1,25,000/- together with sum of Rs. 10,000/- (ten thousand), realized by the Opposite Party from complainant from renovation of house in question. The Opposite Party has kept the said money with him without any jurisdiction and has not rendered service required to be rendered. We hold that the complainant is entitled to recover Rs. 1,35,000/- from the Opposite Party with interest @ 18% per annum.

3. THE complainant has claimed Rs. 25,000/- damages. In view of the fact that the Opposite Party has withheld the money indicated, the complainant is entitled to Rs. 25,000/- (Twenty five thousand), to damages. For reasons stated above, the complaint is allowed and the Opposite Party is directed to pay sum of Rs. 1,60,000/- with interest @ 18% per annum shall accrue from 1st May 93 failing which it would be open to complainant to recover the amount in the manner provided. The complaint and the appeal are decided in the manner indicated above. Complaint allowed. _____