

(1999) 07 NCDRC CK 0082

In the National Consumer Disputes Redressal Commission

SHIVRAO S.WAGLE

APPELLANT

Vs

SPACEMATE DEVELOPERS AND BUILDERS

RESPONDENT

Date of Decision : 01-07-1999

Acts Referred:

Citation : 1999 3 CPJ 42 : 1999 3 CPR 117

Hon'ble Judges : A.A.Halbe , G.R.Bedge J.

Final Decision : Appeals allowed

Judgement

1. ALL these appeals can be disposed of by common judgment. The District Forum in various complaints against which these appeals have been filed, has disposed of the complaints by common judgment. The District Forum came to the conclusion that the dispute involved complicated question of facts and law and that these disputes are between the Co-operative Society and the Members and the same should be referred either to Co-operative Court or Civil Court. However, we are unable to agree with this order for which we record the following facts :

2. THE complainants in all these complaints were attracted towards the representation made by Spacemate Developers and its partners Mrs. Ujawala V. Talwalkar, Mr. Suhas Bandekar and Mrs. Sangita S. Mantri that they had acquired 35 acres of land at Karjat for being developed as a Horticulture Project. THEy proposed to allot to the Members of the proposed Co-operative Society, plots with agriculture development activity. Application Forms were supplied and the terms and conditions were mentioned therein. THE land was promised to be developed in 3 stages : (1) levelled plot; (2) developed plot; and (3) fully developed plot. THE Spacemate Developers and Builders registered a Co-operative Society in January, 1988 so as to facilitate the allotment of plots as per the terms and conditions of the Project. This was between 21.9.1987 to 11.1.1989. Further, all the complainants noticed that there was no progress whatsoever because the land was not acquired and there was internal dispute between the partners. THE complainants, therefore, sought refund of the money

which they have made to Spacemate Developers and Builders and its partners. THE foul design of the Spacemate Developers and Builders came to force by a Note dated 6.6.1992 circulated to the Members by the Chairperson of the Society. It Was also noticed that under the guise of non-payment in time, the Membership of Members were terminated. But this was opposed in the Resolution passed by the Society at its meeting. The District Forum came to the conclusion that there is a dispute between the Society and Space Mate Developers and Builders and that the complainants had lodged 9 individual complaints against the Space Mate Builders for allotment of plot. It seems that the Society by name "Vaijnath Horticulture Co-operative Society" was added as a party. The District Forum found that this was the dispute between the Society and its Members and also the developers and accordingly, dismissed the complaint with direction that the parties can move the Co-operative Court.

We find that the main claim of the complainants is that they have made direct payments to the Spacemate Builders and the Spacemate Builders had agreed to develop the plots and allot the plots to the complainants. Amounts were received by Spacemate Builders and we find that there is a statement on record wherein the 9 complainants have paid in all Rs. 2,50,000/- on the dates shown in the Chart. This claim by the complainant is for the refund of the amount on account of the failure on the part of the Spacemate Developers and Builders to render service of acquiring plots and allotting the same to the complainants. This need not be treated as dispute between the Cooperative Society and Members. We also do not find any complicated question of fact and law in the bare claim of the complainant to get the refund of the amount. We find that the amount of Rs. 60,000/- has been paid by Dr. Shivrao S. Wagle in Appeal No. 825/95, Mrs. E.D. D'Souza and Mr. B.D. D'Souza Rs. 20,000/- and Rs. 30,000/- respectively in Appeal Nos. 833 and 834/95, Mr. B.Y. Pai- Rs. 30,000/- in Appeal No. 835/95, Mr. R. Vinjamuri - Rs. 30,000/- in Appeal No. 836/95, Mrs. U.D. Rajadhyaksha - Rs. 10,000/- in Appeal No. 841/95, Mr. L.M. Sukhtankar - Rs. 20,000/- in Appeal No. 846/95, Mr. Y.B. Keni - Rs. 20,000/- in Appeal No. 847/ 95 and Mrs. S.M. Rangnekar - Rs. 20,000/- in Appeal No. 880/95. These amounts were paid between 9.1.1989 and 25.10.1989. These are the last payments made by them. Now, these facts do not appear to be in dispute. We, therefore, feel that these claims can easily be ordered in favour of the complainants. The claim against the Society shall have to be rejected. We, therefore, pass the following order : ORDER "The respondents shall pay to the respective complainants their respective amount as shown in the preceding paragraph with 15% interest from the date of the respective payment till the actual payment is made to them plus cost of Rs. 3,000/- to each complainant. All the appeals are, thus, allowed. The order of the District Forum is set aside."

Appeals allowed.