
(2008) 08 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

SUDATTA BHATTACHARJEE

APPELLANT

Vs

ARDEE INFRASTRUCTURE LIMITED

RESPONDENT

Date of Decision : 01-08-2008

Acts Referred:

Citation : 2008 4 CPJ 541

Hon'ble Judges : J.D.Kapoor , Rumnita Mittal J.

Advocate : Atul Aggarwal , Bhattacharya , Sidharth Gautam Dwarka

Judgement

1. AFORESAID two appeals arise from the order dated 6th August, 2007 passed by the District Forum whereby the appellant-M/s. Ardee Infrastructure Pvt. Ltd. has been directed to pay Rs. 50,000 to the respondent-Mrs. Sudatta Bhattacharjee towards compensation for delayed delivery of the possession of a residential unit and Rs. 10,000 towards cost of litigation.

2. FOR the sake of clarity we will refer M/s. Ardee Infrastructure Pvt. Ltd. as appellant and Mrs. Sudatta Bhattacharjee as respondent. The appellant is aggrieved of the order itself whereas the respondent is dissatisfied with the amount of compensation as well as the non-registration of the flat in the name of the respondent.

Relevant facts as culled out from the order of the District Forum, in brief, are that the respondent booked a residential unit i. e. B-33 ground floor with the appellant on payment of Rs. 1,58,760 representing registration/ booking charges. The cost of the unit was fixed at Rs. 15,87,600. The agreement provided that in case the possession of the premises is not delivered within two years from the date of commencement of construction the seller shall be liable to pay at the rate of Rs. 5 per sq. ft. per month. The respondent's husband obtained housing loan from Standard Chartered Bank for the purchase of the unit. The respondent had been paying the instalment promptly as and when demanded till the 6th instalment construction was in progress. On 8. 5. 2001 the appellant suddenly informed the respondent about the increased floor area of the unit and demanded an additional amount of Rs. 79,380. The respondent

informed the appellant about the change of residential address. The appellant had started demanding the entire balance price. On 4. 12. 2002 the respondent made the entire payment of balance amount. On 24. 12. 2002 at 3. 00 p. m. respondent went to take possession but found that there was no electric meter on connection in the flat. The appellant only gave permissive possession on 28. 12. 2002.

3. THOUGH the District Forum has not referred to the averment made by the appellant in the written statement and has only stated that appellant appeared and contested the complaint yet the District Forum has not dealt with any of the contentions or pleas raised by the appellant and, therefore, the order suffers from inherent infirmity as every party to the proceedings is entitled to know the reason and the grounds on which his pleas have been accepted or rejected. Unless the party knows the ground of rejection of his pleas he has no sufficient material to file an appeal and make the ground of appeal. Any order passed without any reason or without referring or advertng to the pleas or averments of the parties particularly the opposite party against whom allegations have been made is illegal order and unsustainable and causes miscarriage of justice.

4. ON this short premise we allow the appeal of the appellant-M/s. Ardee Infrastructure Private Limited and set aside the impugned order and send back the matter to the District Forum for deciding it afresh by dealing with and discussing all the contentions and pleas raised by the appellant and at the same time shall also consider the prayer of the respondent made in the complaint pertaining to registration as well as electricity connection. Parties shall appear before the District Forum on 2. 9. 2008 for the aforesaid purpose. Fdr/bank Guarantee, if any, furnished by the appellant be returned to the appellant forthwith after completion of due formalities.

5. A copy of the order as per the statutory requirements be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. Appeal allowed.