
(1993) 10 NCDRC CK 0085

In the National Consumer Disputes Redressal Commission

SURAJ PARKASH

APPELLANT

Vs

RAILWAY EMPLOYEES CO-OPERATIVE GROUP HOUSING
SOCIETY LTD

RESPONDENT

Date of Decision : 13-10-1993

Acts Referred:

Citation : 1994 1 CPJ 410 : 1994 2 CPC 344 : 1994 2 CPR 555 : 1995 1 CLT 57

Hon'ble Judges : R.N.Mittal , S.Brar , A.N.Saxena J.

Final Decision : Complaint allowed

Judgement

1. BRIEFLY the facts of the case are that respondent No. 1 (hereinafter referred to as "the society") is a Cooperative Group Housing Society and the complainant was its member. He paid an amount of Rs. 50,500/-. (In account books shown to have paid Rs. 50,600/-. See copy Annexure -B") to the society. He resigned from the membership on 3rd December'86, which was accepted. After the resignation he requested the society to refund his amount. The society returned Rs. 20,000/- vide cheque dated 11.7.90 and Rs. 30,500/- vide cheque dated 8th August'90. Both the cheques were dishonoured on presentation. It is pleaded that the Registrar, Cooperative Societies, when approached by him, directed the society to refund the amount. Consequently, the society repaid Rs. 20,000/- vide cheque dated 18th July, 1991. That cheque too was dishonoured on 20th July, 1991.

2. IT is further pleaded that respondent Nos. 2 & 3 had signed the cheques and therefore, they were personally liable to pay the said amount to him. Consequently, he has prayed that the respondents be directed to repay the amount of Rs. 50,500/- alongwith interest till the date of repayment and Rs. 50,000/- as damages. The complaint has been contested by the respondents. It is pleaded on behalf of the society that the Management of the society had changed and therefore, the society is not liable to make the payment of the amount. It is further pleaded that the records of the society have not been handed over to the new Management. Respondent Nos. 2 & 3 pleaded that they were not personally liable to make the payment of the amount paid by the

complainant to the society and that it was the society which was liable to refund it.

It is not disputed that an amount of Rs. 50,500/- was deposited by the complainant with the society and that he resigned from the membership on 3rd December, 1986. After he resigned he became entitled to get the refund from the society. That is why it refunded some of the amount vide two cheques which were dishonoured. Later another cheque of Rs. 20,000/- was issued by it in favour of the complainant which too was dishonoured. It was the duty of the society alone to repay the amount and not that of the other respondents. Merely because respondent Nos. 2 & 3 had signed the cheques on behalf of the society, they do not become personally liable. In the circumstances they are not personally liable to reimburse the complainant.

3. THE learned Counsel of the society submits that the society is liable to repay only the amount of Rs. 50,500/- and not the interest and damages to the complainant. THEREfore, now it is to be seen, whether the society is liable to pay the interest to the complainant. THE complainant resigned from the membership in December, 1986; it was the duty of the society to have repaid the amount immediately. In any case, it should have been repaid within a reasonable period after the resignation. However, it was not done. THE society utilised the amount for a long time and the complainant has been deprived of its use. In the circumstances we are of the opinion, that the complainant is entitled to get interest on the said amount. THE rates of interest in the market are very high and still the money is not easily available. After taking into consideration the aforesaid circumstances, we allow interest to the complainant @ 18% p.a. THE society should have repaid the amount latest within a period of about 3 months from the date of resignation. THEREfore, we allow interest to the complainant from 1st March, 1987. We think, complainant has been amply compensated in view of the high rate of interest given to him. Consequently, we do not award any further damages to him. For the aforesaid reasons we accept the complaint with costs and direct the society to pay the amount of Rs. 50,500/- with interest @ 18% p.a. w.e.f. 1st March, 87 till the date of payment, within a period of three months failing which action shall be taken against it under Section 27 of the Consumer Protection Act. Costs Rs. 2,000/-. Complaint allowed.