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(1995) 05 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

VICE CHAIRMAN, DELHI DEVELOPMENT AUTHORITY — APPELLANT

Vs

O.P.GAUBA — RESPONDENT

Date of Decision : 15-05-1995

Acts Referred:

Citation : 1995 0 NCDRC 135 : 1995 2 CLT 654 : 1995 2 CPC 239 : 1995 2 CPR 464 : 1995 3 CPJ 18 : 1995 3 CTJ 711

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , R.THAMARAJAKSHI , S.P.BAGLA , S.S.CHADHA J.

Advocate : J.C.JETELY , Priya Jetley Bhargav , M.N.KRISHNA MANI , H.L.Malhotra

Judgement

1. THIS Appeal - F.A. No. 190/93 and the Cross Appeal - F.A. No. 140/93 have arisen out of the Order dated 10.3.1993 allowing the complaint and granting Rs. 5,000/- as damages to the complainant besides costs of Rs. 500/-.

2. THE Delhi Development Authority, Appellant in F.A. No. 190/93 (for short called D.D.A.) had floated a Housing Project called ''Rohini Residential Scheme'' and invited applications for registration. The complainant had applied on 28.3.1991 for a plot of land measuring 90 sq. mts. in M.I.G. category and deposited a sum of Rs. 5,000/- as registration fee. By D.D.A.''s allotment letter dated 16.2.1990 the complainant was allotted Plot No. 223, Pocket 05, Section No. 03 measuring 60 sq. mts. in Rohini Extension. The complainant objected to the allotment of plot in Rohini Extension and that too measuring 60 sq. mts. but deposited the amount demanded in the allotment letter under protest on or about 16/17.4.1990. The complainant filed complaint on 28.2.1992 and claimed relief of allotment of land measuring 90 sq. mts. as applied for in Rohini Residential Scheme at the rate of Rs. 200/- per sq. mt. less interest at the rate 18% on the deposit of Rs. 5,000/- besides damages of Rs. 6.00 lakhs and interest and costs etc. The complaint was resisted by the D.D.A. on the plea that Rohini Residential Scheme included Rohini Extension and these were not two distinct schemes but part of one scheme and in fact Rohini Extension is actually Rohini Phase-III of this scheme. Pleas further are that the complainant was

considered for 90 sq. mts. plot but was not successful for this size of the plot in the draw of lots and was given 60 sq. mt. plot as per his second option, that D.D.A. allots flats/plots to the successful registrants at the rate approved from time to time and D.D.A. has, therefore, charged premium at Rs. 495/- per sq. mt. as prevalent at the relevant time and that the rate of interest paid to the registrants as per policy guidelines and interest had already been paid. The submission on these pleas is that there was no deficiency in service and therefore, no ground for giving any compensation to the complainant.

3. THE State Commission by the impugned order partly accepted the complaint and awarded damages of Rs. 5,000/- to the complainant for the reasons recorded in the earlier judgment in the case of "Rishi Pal Gupta v. D.D.A.", besides Rs. 500/- as costs.

4. THE appeal by DDA has been filed delayed by 38 days and is accompanied by an application for condonation of delay supported by an affidavit. It is stated therein that the copy of the order dated 10.3.1993 does not appear to have been received by D.D.A. and so a copy of the order was obtained on 8.4.1993. The grounds for delay are given because the order had to be examined from all aspects and at various levels before a decision to file this appeal could be given. In our view this does not constitute a valid and sufficient cause for the exercise of our discretion to condone the delay. Proof of sufficient cause is a condition precedent for the exercise of discretion. It was the duty of the DDA to establish as to how the matter was dealt with at all levels and each day''s delay had to be satisfactorily explained. Inter-office consultation for prolonged periods cannot constitute sufficient cause for condonation of delay. The delay cannot be condoned as a matter of generosity because the process of working in D.D.A. has resulted in the delay. The application for condonation of delay is dismissed and consequently the appeal is dismissed as barred by time. The appeal of the complainant must also fail. He had registered himself for allotment of a plot in MIG Category of Rohini. No right of allotment is conferred under a registration scheme on any applicant by mere registration scheme. The right in only to be considered and of participation in the draw of lots. Application Nos. of all the registrants including the complainant were included in each draw for allotment of plots in the relevant category but the complainant was unsuccessful in earlier draws. In the draw held on 5.10.1989, the complainant was declared successful but there were only 578 plots of 90 sq. mts. for MIG category in Rohini Extension to which the complainant belonged but his priority No. was 970. The complainant was thus given 60 sq. mts. plot which was his second option in the "Rohini Extension". D.D.A. has placed on record that the actual implemention of the scheme was dependent on the availability of the land, the topography of the area and various other factors that arose in the course of implemention of the scheme. On these facts it is not possible to hold that there was any deficiency in service on the part of the Delhi Development Authority in considering the claim of the complainant for allotment of plot. It is unnecessary to go into all this, as the appeal of D.D.A. is barred by time but this expression of the opinion of this

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Commission is only relevant from the purpose of disposal of the appeal filed by the complainant.

5. THE amount of damages of Rs. 5,000/- has been awarded by the State Commission without referring to any material on record or any basis in support thereof or any proof of actual damages suffered by the complainant in this case, but since the appeal of D.D.A. has been dismissed as barred by time, this Commission will leave this matter here.

6. IN the result, both the appeals are dismissed leaving the parties to bear their own costs.

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