
(1997) 03 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

VIKAS VIHAR SOCIETY

APPELLANT

Vs

GURU NANAK LAND And FIN. CO. PVT. LTD.

RESPONDENT

Date of Decision : 17-03-1997

Acts Referred:

Citation : 1997 3 CPJ 597

Hon'ble Judges : A.P.Chowdhri , Desh Bandhu J.

Final Decision : Complaint allowed

Judgement

1. VIKAS Vihar Society, hereinafter referred to as the complainant, is a registered society under the Societies Registration Act, 1860. The opposite party is a Private Limited Company incorporated under the Companies Act and opposite party-2 is its Director responsible for carrying on the business of the Company. The said Company, opposite party-1, offered the complainant 80,000 sq. yards of developed and plotted area @ Rs. 430/- per sq. yard vide its letter dated 28.7.1989 (Exhibit PW 1). The land offered was situated in Village Sadullabad, Pargana Loni, District Ghaziabad in the State of Uttar Pradesh. Accepting the representation of the opposite party's that they owned the said land and had the power and the permission to develop the same for residential colony, the complainant society accepted the offer and instead of 80,000 sq. yards, asked the O.Ps. to make available 1,00,000 sq. yards of the land at the same rate by its letter dated 29.1.1990. Alongwith the acceptance letter, the complainant paid a sum of Rs. 51,000/- by demand draft dated 29.1.1990 (copy Exhibit PW 2). On 15.2.1990, the O.P/s reply that the plotted area which could be made available was only 80,000 sq. yards and asked for a sum of Rs. 25,00,000/- to purchase the land vide PW 3. The complainant society signified its assent to the respondent alongwith cheque for Rs. 5,00,000/- dated 25.4.1990 (Exhibit PW 4). The O.Ps. did not start development work and instead wrote to the complainant to adjust its members in another society called Rail Vihar belonging to Rail Vihar Society vide Exhibit PW 5. The O.Ps. further informed the complainant vide letter dated 6.1.1992 that they had executed a sale-deed dated 4.1.1992 in favour of Rail Vihar Society and asked the complainant to furnish a list of the members

who wished to be adjusted in the said other Society by 15.1.1992, vide Exhibit PW 6. The complainant sent a reply dated 22.1.1992 asking the O.Ps. to obtain the consent of Rail Vihar Society (vide Exhibit PW 7). The O.Ps. failed to obtain and convey consent of the Rail Vihar Society inspite of several letters written for the purpose by the complainant. The enquiries revealed that the O.Ps. who had acquired land had transferred the same in favour of Rail Vihar Society and were left with no other land. They were unable to transfer any land in favour of the complainant. In these circumstances, the complainant, by its letter dated 6.5.1992 and 15.2.1992 asked O.Ps. to refund the amount of Rs. 5,51,000/- (Exhibit PW 10). The complainant further ascertained that the sum of Rs. 5,51,000/- had been duly credited in the account of the O.Ps. vide certificate (Exhibit PW 12). The complainants have asked for the refund of Rs. 5,51,000/- alongwith 24% interest p.a.

2. THE O.Ps. failed to appear inspite of service. THE affidavit of Mr. G.L. Verma, Senior Secretary of the complainant-Society has been filed in support of complainant's case. THE affidavit is supported by various documents, which are referred to in the affidavit and to which necessary reference has been made in the above narrative. Provision of land on payment of consideration for purposes of a residential colony constitutes service within the meaning of the Consumer Protection Act as laid down by the Supreme Court in Lucknow Development Authority v. M.K. Gupta, III (1993) CPJ 7 (SC). THE complaint is duly substantiated with the documents and affidavit of the complainant and, the same have not been controverted. We; accordingly allow the complaint and direct the O.Ps. to refund Rs. 5,51,000/- together with 18% interest per annum from the date of respective payment till date of refund alongwith Rs. 50,000/- as compensation. If the O.Ps. fail to comply with this order necessary action u/Sec. 27 is liable to be taken against them. A copy of this order be conveyed to both the parties. Complaint allowed. _____