

(2002) 08 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

V.K.KATHURIA

APPELLANT

Vs

DELHI DEVELOPMENT AUTHORITY

RESPONDENT

Date of Decision : 16-08-2002

Acts Referred:

Citation : 2002 0 NCDRC 31 : 2002 3 CPJ 132 : 2002 3 CPR 281

Hon'ble Judges : D.P.WADHWA , B.K.TAIMNI , J.K.MEHRA , RAJYALAKSHMI RAO J.

Advocate : GIRIJA WADHWA

Judgement

1. IS the complainant who is petitioner before us. His complaint was that he had been charged excessive price for flat allotted to him in Rohini Residential Scheme, New Delhi by the respondent-Delhi Development Authority (DDA). He has been non-suited both by the District Forum and the State Commission holding that pricing of flat was not within their sphere. For delayed handing over of possession, however, petitioner was granted interest @ 15% per annum for that period. Two appeals were filed before the State Commission, one by the petitioner for refund of excess price of flat and the other by DDA against award of interest @ 15% per annum for delayed handing over of possession. Both the appeals were dismissed by the State Commission. DDA appears to be satisfied with that order but petitioner-complainant still feels aggrieved.

2. IN the present case we do not find that it is a case of pricing of flat and in our view both the District Forums and State Commission failed to exercise jurisdiction vested in them and thus there has been denial of justice to the petitioner. Petitioner has given instances as to how other persons similarly situated have been charged lesser amount than the petitioner. These details are : (Block "A", Pocket-II, Sector-18, Rohini) It would be seen that it was the same flat which was earlier allotted to one Chandan Lal and re-allotted to the petitioner in the category of left out flats.

3. IT is not disputed that all the flats were constructed at the same time. Within ten months of the draw there has been increase in the price from Rs. 1,54,600/-

to Rs. 2,49,800/-. We wanted to know from the DDA as to what was the reason for such steep rise in the price of the flat of the petitioner. Our attention has been drawn by Mrs. Girija Wadhwa, learned Counsel for the DDA to a circular dated 6.12.1990 after approval by the Lt. Governor who is Chairman of the DDA. It is stated that it was on account of this circular that the price of the flat was increased. Along with the circular a precis has been filed which would appear presented before the Lt. Governor for him to exercise his discretion for increase in the price of the flats. Before this date petitioner had already been allotted the flat, date of draw being 10.10.1990. This price as per circular could not have retrospective effect. It was wrong on the part of the DDA to issue the allotment showing the price of the flat as Rs. 2,49,800/- on 10.10.1990 in steep increase in the price of the flat by the Lt. Governor. Considering that the flats have been allotted to Bachan Singh, Chandan Lal and K. K. Malhotra at lesser price when everything was same, it would be case of discrimination as far as petitioner was concerned.

4. THIS petition has, therefore, to be allowed and petitioner is granted relief in terms of his prayer in the complaint. Though the petitioner says he should be charged the same price was earlier charged from Chandan Lal, but considering that K. K. Malhotra whose allotment was that near of the petitioner and was allotted to third floor, we are of the view that the petitioner be charged at a price of Rs. 1,75,400/-. The excess amount over and above this amount paid by the petitioner, shall be refunded to him. Therefore, we set aside the order of the State Commission and also of the District Forum to the extent aforementioned and would direct the DDA to pay the petitioner a sum of Rs. 74,400/- with interest @ 12% per annum from the date he paid the amount of Rs. 2,49,800/- till refund. Petitioner will also be entitled cost assessed at Rs. 2,000/-.