

Housing Board Vs Inderjit Garg

None

Court: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Decision: Feb. 29, 2012

Citation: 2012 0 NCDRC 762 : 2012 2 CPJ 316

Hon'ble Judges: ASHOK BHAN , VINEETA RAI J.

Final Decision: Petition dismissed

Judgement

1. PETITIONER was opposite party before the District Forum. Complainant/respondent 's wife applied for MIG (B) house with the petitioner on

14th November, 1977 and deposited a sum of Rs. 3,000. The balance 1/4th of the total cost was to be paid by the complainant on allotment and

the remaining 3/4th was to be paid in 10-13 years in instalments. After 8 years of the deposit of the amount, petitioner informed the respondent

about the construction of MIG house in Ambala City. Respondent gave his consent for allotment of a MIG house and paid Rs. 6,800 as

demand by the petitioner. Respondent was allotted tenement No. 232 admeasuring 90 sq. yards vide allotment letter No. 1404 dated

25.5.1987. The tentative cost of the house was Rs. 68,900. Respondent signed a hire purchase agreement on 10.10.1990.

2. ON 14th February, 1991, petitioner wrote a letter to the respondent asking him to pay the arrears due otherwise the allotment would be

cancelled. The allotment was cancelled on 9th October, 1991.

On an appeal filed by the respondent, the Deputy Commissioner, Ambala set aside the order of cancellation and directed the complainant to pay

balance amount. The complainant deposited Rs. 25,000 with the petitioner. The wife of the complainant (original allottee expired on 11.1.2000

and complainant was substituted as allottee). On 24th March, 2003 petitioner raised demand of Rs. 2,39,355 which the respondent/complainant

refused to pay as according to him the total cost of house was Rs. 68,900 and he had already paid Rs. 99,086.

3. COMPLAINANT being aggrieved filed the complaint before the District Forum seeking following reliefs:

(i) Physical possession of the house (ii) Refund of Rs. 30,186 (Rs. 99,086 - Rs. 68,900) (iii) Withdrawal of demand of Rs. 2,39,335 (iv)

Compensation of Rs. 1,00,000 and cost of Rs. 5,000

Petitioner on being served entered appearance and filed its reply. Two preliminary objections were taken, (i) The complaint was barred by time,

and (ii) that the complaint was not maintainable as the respondent had already exerted to the remedy under Section 54 of the Haryana Housing

Board Act, 1971 by filing the appeal against the order of the Deputy Commissioner before the Estate Officer On merits it was contended that

since the respondent had failed to make the payment as per order of Deputy Commissioner, Ambala, the eviction order of Estate Manager had

become final. Respondent had taken the possession on 10.10.1990 and he was satisfied with the amenities. Demand of Rs. 2,39,335 includes

monthly instalments, final cost and enhancement cost of land compensation along with interest.

4. DISTRICT Forum relying upon condition No. 4 of the letter of the allotment that if the dues are not paid by the stipulated date, penalty not

exceeding 25% of the amount due could be imposed, allowed the complaint and quashed the demand of Rs. 2,39,335 and directed the petitioner

to raise a fresh demand after making calculations as per Clause-4 of the allotment letter within one month. Respondent was directed to pay the

same within one month of the receipt of the fresh demand. Petitioner was also directed to give possession of the house in question with basic

amenities after receipt of the amount. Rs. 1,000 were awarded as costs.

Petitioner being aggrieved filed an appeal before the State Commission. State Commission appointed Mr. Ravi Kant, Advocate as a Local

Commissioner to inspect and find out the status and condition of the house. Local Commissioner submitted the following report:

Sir, I was appointed as Local Commissioner by this Hon "ble Commissionvide order dated 17.5.2011 with a direction to inspect the site to know

the actual position at the spot and submit the report. I visited the spot in question on 22.5.2011. The respondent along with his Counsel Mr. R.D.

Bedi, Advocate and representative of appellant were present on the spot. I prepared memo of presence and obtained their signature as mark of

presence. I prepared a rough site plan of the site in question i.e. plot/house No. 232, Housing Board Colony, Baldev Nagar, Ambala City. I also

took the photograph of the site, my report is as follows: (a) The site in question is constructed house seems to be old one and consists two rooms,

one kitchen, one combined bathroom + toilet and open space in back yard and in front and constructed single storey. (b) There was RCC road in

front of the house in question. (c) There was an electricity pole with wire, sewerage and water lines are existing in the area surrounding of house in

question. One Sh. A.K. Jain who was also present on the spot and signed the memo of presence is residing in the adjoining house. We told that

they are residing since many years. (d) I found that house in question is not in good condition, all the wall are full of seepage, plaster in ruined

condition and there was iron frame of doors and windows were fixed but door and window were not in existence. (e) The house in question was

lying open and stay castles were there in the room. The floors of the rooms and kitchen and bathroom were full of waste material, earth and cattle

dung. Backyard was full of wild plants. (f) Electricity underground pipe fitting was existing but without wiring and switch boards. Water pipe lines

were existing but without any tap fitting only point of water fitting were appearing in the bathroom as well as in kitchen. The point "X " in

photographs No. N is point of water supply. (g) No front boundary wall was there. Memo or presence, rough site plan and photographs are

attached. The fee has been paid by the parties as assessed by Commission. The Commissioner returned duly executed.

5. STATE Commission came to the conclusion that the report of the Local Commissioner fully supported the averments made by the respondent in

his complaint that the house was in a dilapidated condition. Keeping in view the report submitted by the Local Commissioner, the appeal was

dismissed. Being aggrieved, petitioner has filed the present revision petition.

6. THE only point raised before us is that the District Forum at Panchkula did not have the jurisdiction to adjudicate the dispute as the property, in

dispute was situated in Ambala District. In support of his submission, he has relied upon a judgment of this Commission in R.P. No. 1100/2011,

Rajan Kapoor v. Estate Officer, HUDA and Anr., I (2012) CPJ 142 (NC)=decided on 4.11.2011.

We do not find any substance in the submission made by the Counsel for the petitioner. Under Section 11 of the Consumer Protection Act, 1986,

a complaint can be filed where the opposite party or each of the opposite party resides or where the cause of action or a part of cause of action

arises. In this case admittedly the registered office as well as the head office of the petitioner is at Panchkula. Since the petitioner was residing at

Panchkula, the complaint filed by the petitioner at Panchkula was maintainable. No other point is raised.

7. FOR the reasons stated above, we do not find any merit in this revision petition and dismiss the same with no order as to costs. Revision

Petition dismissed.