

(2004) 01 NCDRC CK 0023

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

DISTRICT INDUSTRIES
CENTRE

APPELLANT

Vs

MRS. SARASWATHI

RESPONDENT

Date of Decision: Jan. 27, 2004

Citation: 2005 2 CPJ 89

Hon'ble Judges: A.Raman , R.Vanaroja J.

Final Decision: Appeal disposed of

Judgement

1. THE complainant's case is as follows: THE complainant, for the purpose of starting a Match Factory, mortgaged her property and raised a sum of Rs. 10,000/- as loan. At that time she handed over her original document of title. On 25.2.1994 she discharged the entire amount due, but when she demanded the original title deed, it has not been returned to her. Hence the complaint.

2. THE opposite party contended that the complainant is not a consumer and there was no service rendered by the opposite party. THE opposite party discharges only a statutory function. Since the complainant's case is that she discharged the loan on 25.2.1994, the cause of action arose on the same day and, therefore, the complaint is barred by limitation. THE other allegations are not true. THE complainant is not entitled to any damages. THE complainant ought to have discharged the loan in full before 29.3.1991, but she has committed default. No loss has been caused to the complainant. If the complainant had paid the loan in time and applied for the return of the document in time, it would have been returned to her. THE receipt has been sent on 19.12.1997 itself. THE opposite party has also obtained a registered copy of

the sale deed and they are prepared to hand over the same to the complainant.

The lower Forum accepted the complaint and directed the opposite party to return the original document and pay a sum of Rs. 10,000/- as compensation.

The complainant availed of a loan from the opposite party and for that purpose she handed over the original title deed of the property belonging to her. The complainant has discharged the loan. The opposite party, in spite of demand, did not return the title deed. If it is so, it is not known as to why the opposite party should at all submit a version making certain allegations which are thoroughly unwarranted in such an action. The opposite party/appellant herein is the District Industries Centre run by the Government, being a Department of the Government, ought to have behaved more responsibly towards the citizens. They have not even shown any regret for having lost the title deed of the complainant in their version. On the other hand, they have chosen to come forward with the plea that she is not a consumer and that the complaint is barred by limitation. It does not become of the opposite party/appellant to take such a stand.

3. IT is only casually that they have chosen to mention that since the amount was not paid in time, they could not trace out the original document. The excuse given is that because of the change of Department in the division on bifurcation of the Districts, the original deed was lost. When it was lost and what was the step taken to trace it out, no details are given in the version. IT is seen from the version that even on 19.12.1997 they have obtained the registration copy. The amount of loan has been discharged in 1994. We have no information when the District was bifurcated or trifurcated. But without trying to trace it out they have come forward with the information that they have chosen to apply for a copy of the registration. This shows only a flippant attitude on the part of the opposite party. Once, when in 1994 itself, the amount had been paid and the loan discharged, it is their duty to return the original document, at least, they should have sent a letter to the effect that the original document had been misplaced and lost and that they would trace out the same and hand over it to the complainant. But they wait and wait and even do not care to reply to the letters that were written and the lawyer's notice issued by the complainant. Therefore, only after the exhausting her patience, the complainant has chosen to move the lower Form in the year 1998.

That the original is lost is now admitted. It is also stated that they have obtained a registered copy of the original sale deed. Therefore, in such circumstances, the order of the lower Forum has to be modified by directing the opposite party to obtain the registered copy of the original title deed and hand over it to the

complainant along with a certificate to the effect that the original was lodged by the complainant with them for the purpose of obtaining a loan and that the loan had been discharged and that the original has been lost while in their custody.

4. NOW, coming to the other part of the order of the lower Forum, directing the opposite party to pay a sum of Rs. 10,000/- as compensation there is definitely deficiency of service. There is a failure to return the original document. There has also been no proper response to the letters of the complainant. In the circumstances, the complainant is entitled to compensation. But considering the explanation of the opposite party that it was lost because of the formation of a new District and the documents were lost in such bifurcation or trifurcation of the District, we would in the circumstances, reduce the compensation awarded, to Rs. 5,000/-.

In the result, the appeal is disposed of accordingly by modifying the order of the District Forum as follows:

(1) The opposite party shall furnish a registered copy of the original document submitted by the complainant to them within four weeks of this order along with a certificate stating that the original of the said document was lodged by the complainant with them when she applied for a loan and that it was lost while it was in their custody and that the loan has been duly discharged by the complainant. (2) There will be a direction to the opposite party to pay a sum of Rs. 5,000/- as compensation. (3) The parties are directed to bear their own costs throughout.

Appeal disposed of.