(1998) 04 NCDRC CK 0006

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

SANJEEV NAYYAR	APPELLANT
Vs	
HARYANA URBAN DEVELOPMENT AUTHORITY.	RESPONDENT

Date of Decision: April 24, 1998

Citation: 1998 2 CLT 265 : 1998 3 CPJ 368

Hon'ble Judges: M.R.Agnihotri , Sushil Paul , A.D.Malik J.

Final Decision: Appeal allowed. Cross Appeal dismissed

Judgement

1. THIS order shall dispose of two Appeal Nos. 497 of 1997 filed by Sanjeev Nayyar, and 585 of 1997 filed by the Haryana Urban Development Authority, as both these appeals are against the same order dated 22.8.1997 passed by the learned District Consumer Forum, Gurgaon.

2. COMPLAINANT Sanjeev Nayyar had approached the District Consumer Forum, Gurgaon, with the grievance that even though a residential plot No. 2950 measuring 286 sq. metres in Sector 23-23A, Gurgaon, had been allotted to him at a price of Rs. 67,700/-, which was deposited by him immediately after the letter of allotment dated 11.8.1986, yet the physical possession of the plot was not handed over to him by HUDA for a considerably long period. Rather HUDA had raised an additional demand of Rs. 66,055.20 on 7.6.1990. Aggrieved against that, the complainant approached the learned District Consumer Forum, Gurgaon, for the redressal of his grievance and the learned District Forum by a detailed and well-reasoned order dated 27.5.1996 ordered the delivery of possession of the plot to the complainant forthwith. The concluding portion of

the said order is reproduced below:

"The allotment took place in the year 1986 and a period of full one decade has been taken by the respondent in carrying out the development activity. The period is too long. The large number of plots does not mean that an allottee be kept in wait for such a long period. There has occurred price escalation and the complainant was deprived of the comforts and benefits of living in his own house. Still, there is no hope as to how much time is taken in making the offer regarding the possession. So, the respondent is ordered to deliver the possession of the plot to the complainant within two months from today. The complainant also deserves to be compensated for the delay and in our opinion the interest on the deposit shall be enough compensation. So, the respondent is further directed to pay interest @ 15% p.a. on the entire deposit so far made by the complainant from the date the other allottees were delivered the possession in that Sector till the date of possession."

However, when the aforesaid order was not complied with by the respondent-HUDA within the stipulated period and on the other hand an additional demand of Rs. 1,57,306/- was raised by adding interest on the instalments by styling the same as delayed payments, etc. the complainant filed the present execution application.

In their reply, HUDA contested the application on the ground that it was a very big Sector and development of various works has yet to be completed. Hence, the delivery of possession of the plot in question was delayed, which would be delivered very shortly.

3. THE learned District Consumer Forum, after examining the matter in detail, came to the conclusion that HUDA had inflated the amount of demand by adding interest on instalments even though nothing was borne out from the record nor did the terms and conditions of allotment permit any additional demand to be made. THE learned District Consumer Forum, further came to the conclusion, that according to Clause 6 of the letter of allotment no interest could be charged on the amount payable by the complainant till the date of offer of possession which in the present case was 14.3.1997, when the same was offered during the pendency of the execution application. On these premises, the learned District Consumer Forum allowed the execution application.

In the appeal before us, the learned Counsel for the complainant has vehemently contended that the services rendered by HUDA were wholly deficient and due to their negligence the complainant had suffered a huge loss and mental agony for which a token sum of Rs. 50.000/-claimed by the complainant should also have been awarded. Thus, it is contended by the learned Counsel that by accepting the appeal the complainant be

declared entitled to the plot in question without payment of any further amount in pursuance of the demand made by HUDA and should also be held entitled to compensation as already ordered by the learned District Consumer Forum, Gurgaon in its order dated 27.5.1996 in the original complaint which has become final as HUDA did not challenge the same in appeal.

4. SO far as the Cross Appeal No. 585 of 1997 filed by HUDA is concerned, the only plea raised is that since it was an execution application, no further relief can be granted in addition to the relief already granted by the learned District Consumer Forum by allowing the original complaint by its order dated 27.5.1996.

We have heard the learned Counsel at some length and have gone through the record. In fact the controversy is in a very narrow compass as both the parties insist on the implementation and execution of the earlier order dated 27.5.1996 passed by the learned District Consumer Forum, Gurgaon by which the complaint was allowed. In nutshell, as HUDA has already admitted that the delivery of possession of the plot in question could not be made earlier as the plot had not been fully developed and that the offer for its possession was made in March, 1997, i.e. more than a decade after the allotment, HUDA is not entitled to demand any interest on the instalments by way of extension fee or delayed payment, etc. This was a clear mandate of the letter of allotment as has been rightly concluded by the learned District Consumer Forum. Therefore, the complainant had rightly been held entitled to possession of the plot in pursuance of the order dated 27.5.1996 without payment of any additional amount as demanded by HUDA.

Thus, HUDA is directed to immediately comply with the order dated 27.5.1996 and deliver the physical possession of the plot in question to the complainant forthwith, failing which it will amount to disobedience of the direction issued by the learned District Consumer Forum vide its order dated 27.6.1996 as well as the order dated 22.8.1997 now passed in the execution application by the learned District Forum.

5. SO far as the claim of compensation amounting to Rs. 50,000/- is concerned, we are of the considered view that ends of justice would be adequately met if the complainant is awarded Rs. 25,000/- by way of compensation for harassment, mental agony, etc. suffered by him due to delay in the delivery of possession for more than a decade. The

complainant shall also be entitled to costs of litigation which are quantified at Rs. 1,000/-. Resultantly, the appeal filed by the complainant stands allowed and the Cross Appeal filed by HUDA stands dismissed. Appeal allowed. Cross Appeal dismissed.

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