

(1999) 03 NCDRC CK 0019

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

XAVIER ESTATES

APPELLANT

Vs

SENIOR MANAGER, INDIAN
BANK

RESPONDENT

Date of Decision: March 17, 1999

Citation: 1999 2 CLT 599 : 1999 2 CPR 160 : 2000 1 CPJ 325

Hon'ble Judges: E.J.Bellie , Pulavar V.S.Kandasamy , Angel Arulraj J.

Final Decision: Complaint dismissed

Judgement

1. THE case of the complainants Xavier Estates is that they had availed a medium terms agricultural loan from the opposite party for Rs. 17,55,000/- . For that they had deposited with the opposite party title deeds of the property worth Rs. 5.5 crores as security. THE complainant had paid the entire principal and interest thereon by 31.12.1997 and they requested the opposite party Bank to return the title deeds. THE opposite party closed the account on 2.1.1998. Subsequent reminders by the complaint for return of the documents were at no avail. After a month the complainant again sent a letter dated 29.1.1998 and once again the complainant sent an other letter dated 3.2.1998 stating the difficulties faced by them for want of the title deeds but they were also of no avail. THE conduct of the opposite party is clear case of deficiency in service. On these allegations the complaint has been filed for directing the opposite parties to return the title deeds and for compensation of Rs. 11,00,000/-.

2. THE opposite party in their version contends that the complainant M/s. Xavier Estates have no locus standi to file this complaint since they are/neither the

borrowers nor the mortgagors and as such they have no right to demand release of the documents deposited with the opposite party for the loan availed of by M/s. Sivagami Pathachi and others. THE mortgager alone is entitled on redemption for delivery of the title deeds. It is further contended that failure to return of title deeds deposited gives rise only to a civil dispute and not a right under the Consumer Protection Act. THE account was closed on 2.1.1998 and immediately thereafter the opposite party informed the loan Sanctioning Authority namely the Agricultural Finance Department as per Rule 24-3-1 and obtained permission from the said Sanctioning Authority to authorise the opposite party to release the documents. On receipt of such permission the opposite party informed the borrower M/s. Sivagami Pathachi and others care of M/s. Xavier Estates over phone on 9.3.1998 requesting them to call at their office to receive the documents and then they followed it with a letter dated 11.3.1998. THE letter was returned with the postal endorsement on the cover "refused". THE present complaint has been filed suppressing the fact and it is mischievous. As such there was no deficiency in service on the part of the opposite party and hence the complaint is liable to be dismissed.

The point for decision is whether there was any deficiency in service on the part of the opposite party and if so what reliefs can be granted to the complainant. Point : One of the contentions of the opposite party is that the mortgagor is M/s. Sivagami Pathachi and others and, therefore, only they can ask for return of the title deeds and not the complainants who are Xavier Estates. It is not in dispute that the mortgagors was M/s. Sivagami Pathachi and others. That being the case it is not stated in the complaint as to how Xavier Estates could file the complaint. On this ground alone the complaint is liable to be dismissed.

Secondly, the National Commission in 1997 (2) C.P.R. 3 (N.C.), has held to the effect that non-release of documents by the Bank on repayment of the loans which were deposited as security for loan does not give cause of action for filing a complaint under the Consumer Protection Act and only a civil case can be filed. On this ground also the complaint is liable to be dismissed.

3. IN the result, therefore, we dismiss the complaint. But there will be no order as to costs. Complaint dismissed.