

(1992) 11 NCDRC CK 0021

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

SANJAY BHASKAR GAWAI

APPELLANT

Vs

ORANGE CITY BUILDERS PVT.
LTD.

RESPONDENT

Date of Decision: Nov. 11, 1992

Citation: 1993 1 CPJ 318 : 1993 2 CPR 267

Hon'ble Judges: G.G.Loney , Elipe Dharma Rao J.

Final Decision: Complaint allowed with costs

Judgement

1. THE complainant has alleged in his complaint that he entered into an agreement of development of the site for construction of flat for himself. According to the complainant, the opposite party No. 1 failed to carry out the incomplete work even though complainant made the full payment. It is also alleged that the construction made by the opposite party was sub-standard and not according to the specifications mentioned in the agreement. In short, the complainant alleged that the services rendered by the opposite parties were deficient in many respects. THE complainant, therefore, claimed Rs. 12,000/- towards the other charges, Rs. 15,000/- for failure to complete the Balconies as per the specifications and Rs. 13,000/- for correcting the substandard work. THE complainant also claimed loss of interest amounting to Rs. 12,000/- and other losses amounting to Rs. 1,63,500/-.THE claim of the complainant was opposed by the opposite parties.

2. WE have heard the complainant in person and Opposite Party by Shri R.V. Deo, Advocate.

The following are the admitted facts. The ownership document was registered on 27.9.1991. The complainant was handed over the possession of the flat on 23.3.1987. The price was fixed at Rs. 1,55,000/- but Rs. 1,60,000/- were paid by the complainant to the Opposite Party. According to the complainant the following deficiencies were found in the service of the Opposite Party.

(1) The complete construction as per the specification and the plan was not done by the Opposite Party and, therefore, the complainant was required to spend Rs. 2,8000/- to complete that construction as per specifications stated in the agreement. (2) The complainant claimed refund of Rs. 12000/- which he has paid for electric connection, water connection and towards sales tax. The grievance of the complainant is that only Rs. 2,000/- to Rs. 3,000/- were required for the aforesaid purpose and, therefore, he is entitled to get the refund of Rs. 12,000/-. (3) The complainant claimed the loss of occupancy due to the delay in handing over the possession and, therefore, claimed Rs. 16,000/-. (4) The complainant claimed Rs. 5,000/- for not forming the association by the Opposite Party under the existing law. (5) The complainant also made a grievance that the extra FSI is being utilised by the Opposite Party although he has a share in the FSI. (6) Lastly, the complainant has claimed Rs. 2,500/- as cost.

3. In reply, Shri Deo, Advocate has submitted that the agreement is dated 11.7.85 between the parties and the possession was granted to the complainant within 18 months as per the agreement. It is further submitted that the permission was granted for occupancy on 11.7.85 and immediately, the complainant was placed in possession. According to the complainant, he should have been placed in possession at the end of December, 1987 but he was placed in possession in the month of February, 1988. It, therefore, appears that there was two months delay in handing over the possession. It is also submitted by the Opposite Party that Rs. 7,000/- were spent towards electric and water meter Rs. 2,000/- were required for registration. It is also submitted by the Opposite Party that accounts of expenditure were placed before the meeting of the flat owners society on 18.9.86 and its correctness was not disputed by any of the members.

After hearing both the parties, we find that the Opposite Party has delayed in delivering the possession to the complainant and also did not complete the work as per the specifications. Similarly, the complainant suffered loss due to delay in occupying the flat.

3. WE find from the arguments of the Opposite Party that the association was registered on 27.9.91 and, therefore, the complainant cannot legitimately claim Rs.

5,000/- in not forming an association. Similarly, we find that the accounts produced by the society were not disputed in the meeting of the society and, therefore, the claim of the complainant that he paid more money for electric and water supply and for registration also cannot be accepted. However, the complainant has successfully proved that the work of his flat was not completed as per the specification in terms of agreement and that he was required to spend Rs. 28,000/- for completing that work. In view of the claim of complainant that he is required to spend Rs. 28,000/- for completing the construction, he is entitled to claim compensation for the said amount as it is as a result of negligence on the part of opposite party. The complainant also proved that he received the possession late and claimed Rs. 16,000/- on that count. However, for the delay of two months, we grant Rs. 4,000/- as compensation. Having thus proved the complaint on these two counts, we are, therefore, inclined to grant the relief to the complainant for the total amount of Rs. 32,000/- towards incomplete work and delayed possession. WE also grant to the complainant the cost of this complaint. Hence, we pass the following order: - ORDER The complaint is allowed. The opposite party shall pay to the complainant Rs. 32,000/- towards the compensation and Rs. 1,500/- as cost of this complaint. The other claims of the complainant are dismissed as not proved. The complainant be paid the aforesaid amount within 30 days from the receipt of this order failing which the complainant will be at liberty to move this Commission for its execution. Complaint allowed with costs.