

## LUCKNOW DEVELOPMENT AUTHORITY Vs KAMAL KANT DUBEY

**Court:** NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

**Date of Decision:** June 9, 2000

**Citation:** 2000 3 CPJ 303

**Hon'ble Judges:** K.C.Bhargava , D.D.Bahuguna J.

**Final Decision:** Appeal allowed in part

### Judgement

1. THIS is an appeal against the judgment and order dated 31.5.1999 passed by District Consumer Forum-II, Lucknow in Complaint Case No.

337/98.

2. THE facts of the case stated in brief are that the complainant is an employee of State Bank of India. He applied for an M.I.G. House No. 21,

Sitapur Road from Lucknow Development Authority through the State Bank of India Staff Association. THE cost of that house was deposited by

the complainant on 28.12.1994 but Lucknow Development Authority has not handed over the possession of the house after completing the same.

THE opposite party in the written version has alleged that on account of opposition by the villagers, the construction work could not be completed.

This information was sent to the Bank Staff Association and it was indicated that the house shall be completed soon and the possession will also be

delivered.

The learned District Forum, after considering the case of the parties, held that the above house has been allotted to the complainant without solving

the dispute. The allotment of semi-finished house after collecting the entire amount from the complainant amounts to deficiency in service on the

part of the Development Authority for not giving the possession of the house complete in all respects. The learned District Forum directed that the

house should be completed within six months and the possession of the house be delivered after completing the formalities. It allowed interest at

the rate of 18% per annum from 1.1.1996 to be paid within six months. It was also ordered if the possession of the house is not delivered then the

complainant will also be entitled to compensation at the rate of Rs. 500/- per month and the interest shall be paid at the rate of 24% per annum.

Aggrieved against the order of the learned District Forum, the appellant has come in appeal and has challenged the correctness of the order passed

by the District Forum.

3. WE have heard the learned Counsel for the Lucknow Development Authority Mr. Pramod Kumar without issuing notice to the respondent for

the reason that it will put extra burden on the respondent. The question raised by the learned Counsel for the appellant have been settled by various

decisions of this Commission, the Hon"ble National Commission and the Hon"ble Supreme. The issuing of notice would have added to the cost of

the opposite party and the judgment would be the same even if the complainant is heard. The learned Counsel for the appellant has argued that an

agreement was entered with the Bank Staff Association that the 100 houses will be allotted to the Bank staff. Thereafter, by another agreement,

these 100 houses were converted into 30 houses. It was also agreed that the rest of the amount shall be refunded. A perusal of the file will go to

show that the houses were to be given by the Lucknow Development Authority to the State Bank of India Staff Association for its employees. The

record goes to show that the Lucknow Development Authority wrote a letter dated 18.12.1992 to the Secretary, State Bank of India Housing

Society that the permission to allot 100 houses has been granted. The cost of one house comes to Rs. 3,05,000/-. The cost of these houses was

demand by letter dated 18.12.1992 by the State Bank of India Staff Association to indicate the exact costing so that the amount may be

deposited with the Lucknow Development Authority. Thereafter, by letter dated 19.6.1993, the State Bank of India Staff Association informed the

Cost Accountant and Economic Planner of Lucknow Development Authority that they have deposited the allotment money of 25 houses of Rs.

2,50,000/- by cheque dated 29.3.1993. It has also mentioned that the amount deposited by them earlier be adjusted proportionately from the rest

of the houses. Thereafter, the Lucknow Development Authority by its letter dated 23.8.1993 sent the schedule of payment. Now it is an admitted

fact that the entire payment has been made but the house have not been completed and the possession have not been delivered to the

complainants.

A perusal of the file will go to show that the amounts were deposited in December, 1994 but the possession has not been delivered even after a

lapse of 5 years. Therefore, there is a deficiency on the part of the Lucknow Development Authority for which it has to compensate to the

complainant. The learned District Forum has directed for completion of the house and for delivery of the possession to the complainants failing

which 18% per annum interest has been awarded against them besides some other relief as mentioned in the earlier part of the judgment. When the

damages have already been granted in the form of interest at the rate of 18% per annum, it was not necessary to grant the compensation of Rs.

500/- per month. The interest at the rate of 24% per annum cannot be granted in view of the decisions of the Hon"ble Supreme Court in the case

of Surendra Kaur v. Government of Punjab & Ors., (1998) 9 Supreme Court Cases 592, in which it has been held that the interest shall be

payable at the rate of 18% per annum. Similarly the Apex Court in the case of Lata Construction Company & Ors. v. Dr. Ramesh Chandra

Ramaniklal Shah & Ors., III (1999) CPJ 46 (SC)=X (1999) SLT 77=(1999) 9 Supreme Court Cases 534 has also upheld the interest of 18% in

case of builder. The Hon"ble National Commission has also awarded interest at the rate of 18% in the case of George Thomas & Ors. v.

Ghaziabad Development Authority, I (1999) CPJ 18 (NC).

4. THUS, we find that the order of the learned District Forum requires some modification. The appellant shall not be liable to pay Rs. 500/- per

month as a compensation and interest at the rate of 24% per annum. The appellant shall only pay interest from 1.1.1996 at the rate of 18% per

annum till the date of possession of the house and Rs. 1,000/- as cost which have been awarded by the learned District Forum. Order

The appeal is allowed in part to the extent that the appellant will pay interest at the rate of 18% per annum from 1.1.1996 till the date of delivery of

possession of the house alongwith the cost of Rs. 1,000/- as awarded by the learned District Forum. The rest of the order of learned District

Forum is set aside. Let compliance of this order be made within a period of two months from the date of this order. Let copy of this order be

made available to the parties as per rules. Appeal allowed in part.