
(2000) 09 NCDRC CK 0009

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

SECRETARY, ORISSA
STATE HOUSING
BOARD

APPELLANT

Vs

BIDYUT PRAVA
SAHOO

RESPONDENT

Date of Decision: Sept. 28, 2000

Citation: 2001 1 CPJ 286

Hon'ble Judges: D.M.Patnaik , Arati Mohanty , Pramodnath Das J.

Final Decision: Appeal partly allowed

Judgement

1. THIS is an appeal against the ex-parte judgment dated 16.10.1997 of the District Forum, Angul in Complaint Case No. 71 of 1997. The facts of the case are that the complainant was allotted the residential house bearing No. BL-42 by the opposite party at Vikrampur, Talcher after depositing the earnest money of Rs. 17,000/- on 8.8.1996. The agreement was executed by the opposite party on 30.10.1996 and document registered on 3.1.1997 at Sub-Registrar's Office, Talcher. The balance amount of Rs. 16,847/- was to be paid in 44 quarterly instalments of Rs. 680/-. The petitioner also deposited the 1st quarterly instalment of Rs. 680/- on 7.1.1997. The Project Engineer was requested to hand over the possession of the house to the petitioner by 31.1.1997 but till date no possession of the house has been delivered to the petitioner. Hence the complainant alleged deficiency of service by the opposite party.

2. INSPITE of opportunity the appellant failed to appear and file show-cause before the learned District Forum. So the case was disposed off ex-parte basing on the materials

available on the record.

We have heard the learned Counsel Mr. Samantaray on behalf of O.S.H.B. and the authorised person of the petitioner Sri Godavarish Saho for the parties at length and have carefully gone through the documents/materials on record.

The learned Counsel for O.S.H.B. has argued that the house bearing No. BL-42 has been allotted in favour of Smt. Bidyut Prava Saho and possession order has been issued, but unfortunately some college students are staying inside the said house and are not vacating the same for which F.I.R. before the concerned Officer-in-Charge of the police station has been filed. This argument has no force and is, therefore, rejected. The reason so given for delay in handing over possession of the house is inexcusable and is deficiency in service. Utter negligence has been shown. Thus we find that there is deficiency in service by not delivering possession of the house in time because it is an admitted fact that the possession was to be delivered by 3rd January, 1997 i.e., on the date of registration made at Sub-Registrar Office, Talcher also admitted by the learned Counsel on behalf of O.S.H.B. It is further been argued that only one instalment of Rs. 680/- was deposited on 7.1.1997. Hence the exorbitant compensation and interest together should not have been awarded by the learned District Forum from 7.1.1997. Further it was urged before us that Secretary, O.S.H.B. is a non-technical Govt. Officer and should not be held responsible personally to pay the amount of compensation from his salary which order of the Forum is unwarranted and uncalled for. Thus the appeal is liable to be allowed in part. This contention is correct in our view. The order of the District Forum shall stand modified accordingly. The judgment passed by the learned District Forum indicates that no one was present on behalf of the O.S.H.B. despite notice and reminder. This fact was not disputed on behalf of the appellant. Hence the learned District Forum has not committed any error in disposing of the case ex-parte. The District Forum have given a considered judgment with convincing reasons and therefore, there is no reason for us to interfere with the findings arrived at by the District Forum. But we feel it to modify as under. Order The appeal is allowed in part. The question of awarding compensation does not arise. However, we award a sum of Rs. 2,000/- towards the cost of litigation to meet the ends of justice. The O.S.H.B. is hereby directed to return the deposited amount of Rs. 17,680/- alongwith the litigation cost of Rs. 2,000/- as the complainant does not like to involve in further litigation. Rest part of the judgment is confirmed. Let compliance of the order be made within two months from the date of communication of the order, failing which the O.S.H.B. will be liable to pay interest @ 18% per annum on the total amount of Rs. 19,680/- awarded. Mr. Justice D.M. Patnaik, President-I agree. Dr. Arati Mohanty, Member-I agree. Appeal partly allowed.