

(1999) 08 NCDRC CK 0014

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Ram Gopal Singh

APPELLANT

Vs

S.N.WAHAL

RESPONDENT

Date of Decision: Aug. 31, 1999

Citation: 2000 1 CPJ 276

Hon'ble Judges: Lokeshwar Prasad , Desh Bandhu , Rumnita Mittal J.

Final Decision: Appeal dismissed

Judgement

1. THE present appeal, filed by the appellant, is directed against order dated the 23rd April, 1999, passed by District Forum-IV in Case No. 621/98 entitled Sh. S.N. Wahal v. Sh. Ram Gopal Singh & Anr.

2. THE facts relevant for the disposal of the present appeal, briefly stated, are that the respondent Sh. S.N. Wahal had filed a complaint under Section 12 of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act") before the District Forum, averring that the respondent/complainant wanted to purchase a flat and for that purpose paid a sum of Rs. 2,00,000/- as advance to the appellant and to his associate Sh. Ramesh Bahuguna. THE balance payment was directly made to the allottee of the flat in question. However, the deal did not mature and the allottee returned the money paid to him directly by the respondent/complainant except Rs. 15,000/- and Rs. 2,00,000/-. THE respondent/complainant demanded his money back from Mansa Properties of which the appellant is the Proprietor. It is stated that later on said Sh. Ramesh Bahuguna issued two cheques in March, 1997 for Rs. 2,25,000/-, which were dishonoured on presentation. It is stated in the complaint filed by the respondent before the District Forum that the respondent made repeated requests

to the appellant and also to said Sh. Ramesh Bahuguna to return the amount but the same has not been returned to him despite promises and assurance given by the appellant and also by said Sh. Ramesh Bahuguna. In the complaint filed by the respondent before the District Forum, the complainant had prayed for recovery of money from M/s. Mansa Properties and Sh. Balram Kohli, the owner of the flat, alongwith prevailing rate of interest.

The claim of the respondent, in the District Forum, was contested by the appellant. The stand of the appellant in the District Forum was that the appellant was simply the proprietor of M/s. Mansa Properties and said Sh. Ramesh Bahuguna is not a partner in the abovesaid firm. It is further contended by the appellant that the transaction of Rs. 2,00,000/- was between said Sh. Ramesh Bahuguna and the respondent-S.N. Wahal and that the appellant had no concern with the same.

The learned District Forum, vide impugned order, has held the appellant and said Sh. Ramesh Bahuguna guilty of deficiency in service and has directed the appellant and said Sh. Ramesh Bahuguna to refund Rs. 2,00,000/- to the respondent/complainant with interest @ 15% p.a. from 21.8.1996 till actual payment. The learned District Forum has also awarded a sum of Rs. 1,000/- as costs of litigation.

3. FEELING aggrieved with the above order of the learned District Forum, the appellant has preferred the present appeal.

On the question of admission of the present appeal we have heard the learned Counsel for the appellant at length and have also carefully gone through the documents/material on record. During the course of arguments it was stated by the learned Counsel for the appellant that the appellant, in his capacity as proprietor of M/s. Mansa Properties, was merely acting as a broker in the deal which took place between the respondent and said Sh. Ramesh Bahuguna and that the amount in question was never received by the appellant and that the appellant had no concern with the deal that took place between the respondent and said Sh. Ramesh Bahuguna. On a perusal of the impugned order, it is apparent that the learned District Forum has observed that the copy of the Receipt-cum-Agreement (Annexure A4) shows that the same is on the letterhead of "Mansa Properties" of which appellant admittedly is the proprietor. The above-said document, indicative of the receipt of the amount in question, bears the signatures of the appellant and also of said Sh. Ramesh Bahuguna. The contention advanced by the learned Counsel for the appellant at the Bar during the course of arguments that the appellant had no concern with the deal in question, in our opinion, is devoid of substance not only

because of the above fact but also because of the fact that in the complaint filed by the respondent before the District Forum, it was specifically averred by the respondent/complainant that he made advance payment of a sum of Rs. 2,00,000/- to the appellant, the owner of "Mansa Properties" and his associate Shri Ramesh Bahuguna. There is no specific denial of the above averments by the appellant in the affidavit dated 14.1.1999, filed by him, before the District Forum, by way of evidence.

4. IN the presence of the above facts, in our opinion, it cannot be reasonably believed that the appellant had no concern with the deal in question, as contended by the learned Counsel for the appellant.

In view of the above discussion, in our opinion, the present appeal, filed by the appellant, is devoid of substance. The same merits dismissal. Accordingly, the same is dismissed in limine. In the facts and circumstances of the case, the parties are left to bear their own costs. Appeal dismissed.