

YESH PAUL GOYAL Vs IMPROVEMENT TRUST

Court: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Decision: April 22, 1993

Citation: 1993 0 CPC 626 : 1993 3 CPJ 1397

Hon'ble Judges: S.S.Dewan , R.L.Gupta , Gurkanwal Kaur J.

Final Decision: Appeal dismissed

Judgement

1. AGGRIEVED by the order of the District Forum, Bhatinda, dated 16.12.1992 dismissing his complaint with the observations that keeping in

view the complex nature of dispute, where number of questions of facts and law are involved and which cannot be determined only by leading

detailed evidence and the proper course to be adopted by the complainant would be to file a suit in the Civil Court for claiming the necessary relief

prayed in the complaint and further that in the instant case the complainant has sought relief, including direction to the S.H.O. of the Police Station

to register a case under Sections 420/406/468/120-B I.P.C. and for claiming the said relief advising the complainant to go directly to the police for

getting the criminal process set into motion, the complainant has filed the present appeal before us.

2. WE have heard Shri T. L. Goyal, Counsel for the appellant. The learned Counsel has fairly conceded that the complainant is challenging the

order dated 10.9.1985 vide which his plot was resumed and he has filed the present complaint before the District Forum, Bhatinda on 6.8.1991.

The learned Counsel has tried to push back the unsurmountable barrier of limitation in filing the complaint before the District Forum under the

Consumer Protection Act, 1986 by contending that the complainant can come to the District Forum at any time. The assertion of the learned

Counsel evaporates in the face of catena of Judgments passed by the Hon"ble National Commission laying down that the principle of Limitation

Act applies to the complaint filed under the Consumer Protection Act. The observations of the National Commission in the case - Mrs. R.D.

Chinoy v. Central Bank of India reported in II (1992) CPJ 557 (NC)=1992 (2) Consumer Protection Report Page 664; are quoted below:-

We are not prepared to accept the submissions of the complainant that law of limitation is not applicable to cases under the Act. There is catena

of decision of this Commission to the effect that principles of Limitation apply to complaints filed under the Act. If a cause of action cannot be

agitated in a Civil Court, by reasons of its having become barred by limitation, it cannot be allowed to be made a ground for getting relief before

the Consumer Forums constituted under the Consumer Protection Act, 1986. After the expiry of period of limitation rights and obligations of the

parties to a dispute get settled. It would be against principles of justice to unsettle such settled matters. Hence the State Commission rightly came

to the conclusion that the claim for damages made by the complainant under the Act for the alleged deficiency in service rendered by the Bank is

very stale.

The complainant has prayed that the opposite parties may kindly be directed to release the said plot No. 399 allotted to the complainant without

any further delay or any additional charges and to sanction the site plan and to give the demarration of the said plot for construction of the house.

The said relief cannot be granted until and unless the order of the resumption of the plot dated.10.9.1985 is declared null and void and for that

matter, we are of the view that Article 58 of the Limitation Act, 1963 (hereinafter called "the Act") prescribing the period of limitation of 3 years

from the date when the order to sue first accrues will govern the case of the complainant-appellant. The application of the residuary Article 137 of

the Act prescribing the period of three years when the right to" apply accrues cannot be disputed.

3. IN view of the above observations, we find that the present complaint filed on 8.1991 before the District Forum is absolutely time barred.

Moreover also we are of the considered view that the Court should be reluctant to go into delayed and stale claims, thus those who are awoken

enough and are conscious of their rights and have not slept over their rights are only entitled to knock at the doors of the Court.

Otherwise also we have carefully perused the impugned Judgment of the learned District Forum. The Learned. District Forum after appreciating

the facts, involved in controversy and after applying its judicial mind and basing its observations in the rulings, stated in his order has rightly come to

the conclusion that the proper course for the complainant would have been to go to the Civil Court and the police for claiming the necessary relief.

We do not find any cogent reason to interfere with the well reasoned Judgment of the District Forum.

4. FOR the reasons recorded above, we do not find any merit in the present appeal and the same consequently fails and is dismissed. 10. Keeping

in view the facts and circumstances of the case, we do not think it proper to burden the parties with any costs. Appeal dismissed.
