

(2012) 07 NCDRC CK 0142

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

HARYANA URBAN
DEVELOPMENT
AUTHORITY

APPELLANT

Vs

Bal Kishan Gupta S/O
Shri Kashmiri Lal

RESPONDENT

Date of Decision: July 10, 2012

Citation: 2012 0 NCDRC 336 : 2012 3 CPJ 695 : 2012 3 CPR 353

Hon'ble Judges: J.M.Malik , Vinay Kumar J.

Advocate: Charu Sangwan

Judgement

1. Briefly stated the factual scenario is as follows. Bal Kishan Gupta, the complainant was allotted plot No. 460, Sector 30, Urban Estate, Kurukshetra by petitioner No. 1-Haryana Urban Development Authority on 10.12.1993 for a sum of Rs.1,63,240/-. The possession of the plot was to be delivered after completion of the development works in the said sector. Bal Kishan Gupta deposited a sum of Rs.1,62,025/- with the petitioner. He requested the petitioners to accept the balance amount of Rs.1215/- and issue "no dues certificate". However, the petitioners refused to do so.

2. THE complainant alleged that the possession was not delivered, development works were not yet completed. The petitioners failed to deliver the plot within two years and were liable to pay 18% of the interest for the delayed period. On these facts and circumstances of the case, the complainant filed a complaint wherein he claimed that the possession of the plot be delivered to him on his depositing Rs.1215/- and "no dues certificate" be issued. It was further requested that the petitioner should be directed not to

deposit any interest or extension fee till the expiry of two years and withdraw the notice dated 21.3.2003. The complainant also demanded compensation in the sum of Rs. 1 lakh and Rs.11,000/- as amount of escalation in the price of construction material.

3. ON the other hand, Estate Officer, Haryana issued a notice dated 21.3.2003 against the complainant to show cause as to why penalty in the sum of Rs.93,160/- be not imposed him. The case of the petitioner is that the possession was offered to the complainant on 19.12.1995 after completion of development works. The present complaint filed in May, 2003 is time barred. The complainant has to pay a sum of Rs.93,000/- because he has been defaulter.

4. THE District Forum held that the development works before 12.2.1995 cannot be presumed to be completed. It was further held that

"The date of offer of possession will be considered on 12.02.1995 and Ops are not entitled to any interest up to 12.02.1996. So far as the rate of interest is concerned Ops have charges 18% interest on the outstanding instalments which is also wrong. Hon"ble Supreme Court in case Roochira Ceramics vs. HUDA 2001 (2) RCR (Civil) Page 617 has held that authority entitled to charge interest at the rate of 10% only and not 18%.

Therefore, the notice dated 21.03.2003 is wrong and same is hereby quashed. For the reasons recorded, we accept the complaint and direct OP to charge 10% interest on the instalments due after 12.02.1996 instead of 18% and charge extension fee after giving two years time from 12.02.1996 to 11.01.1998 onward and issue No Dues Certificate after preparing calculation of interest and extension fess after making the payment by complainant if any. This order be complied with within 30 days from the date of preparation of copy of this Order failing which penal action under Section 27 of the Consumer Protection Act will be taken. File be consigned to the record room. "

(Emphasis Supplied)

5. AGGRIEVED by this order, the appeal was preferred before the State Commission. During the pendency of this appeal filed by HUDA, HUDA had implemented the order passed by the District Forum by transferring the plot in the name of Rajesh Kumar S/o Shri Bal Kishan Gupta, complainant and "no dues certificate" was also issued. Consequently, as soon as the order stood implemented, therefore, it was held that no further cause of action existed. Hence the appeal was dismissed having become infructuous.

6. LEARNED counsel for the petitioners vehemently argued that the complainant is still liable to pay Rs.1,02,187/- against the charges and extension fee regarding plot allotted to him. She also argued that the complainant is defaulter and liable to pay the penalty interest. She contended that as per rules, HUDA is entitled to have interest at the rate of 18% p.a.

7. ALL these arguments are devoid of force. Learned counsel for the petitioners submitted that she does not pick up a conflict with the order passed by the District Forum. She could not point out any illegality or infirmity in the order. The order passed by the District Forum also stands complied with. The State has already given possession to the complainant. It has also issued "no dues certificate". It is now estopped from challenging no dues certificate issued by the petitioners themselves. It is difficult to fathom as to how the petitioners can challenge "no dues certificate" issued by itself.

8. THIS is not the case of petitioners that "no dues certificate" was wrongly issued or some action was taken against their officers for issuing "no objection certificate" wrongly. District Forum gave time to issue "no dues certificate" after preparing calculation of interest and extension fees making the payment by the complainant, if any. In case, the order of the District Forum has not yet been complied, that very order still can be executed as per law. After weighing up pros and cons of this case, we find that revision petition is without force and as such revision petition is dismissed.