

(2012) 04 NCDRC CK 0070

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Rakesh Goyal

APPELLANT

Vs

Delhi Development Authority
Through its Director (H ? II) Vikas
Sadan

RESPONDENT

Date of Decision: April 10, 2012

Citation: 2012 0 NCDRC 106 : 2012 2 CPJ 320 : 2012 2 CPR 366

Hon'ble Judges: Anupam Dasgupta , Suresh Chandra J.

Advocate: Mahendra Singh , Girija Wadhwa

Judgement

1. THIS revision petition challenges the order dated 23.05.2008 of the Delhi State Consumer Disputes Redressal Commission, Delhi (in short, ?the State Commission?) in First Appeals no. 734 and 705 of 2005 filed by both the respondents and petitioner respectively. By this order, the State Commission disposed of both the appeals with the following directions: ?4.? There is no doubt that the respondent suffered for long for non-traceability of the payment made by him that resulted in the cancellation of the flat, we deem that lumpsum compensation of Rs.50,000/- for the mental agony, harassment and the loss suffered by him which shall include the cost of litigation, shall meet the ends of justice. 5. The payment shall be made within one month from the date of receipt of this order?.

2. IT may be noticed that these appeals were filed against the order dated 08.08.2005 of the District Consumer Disputes Redressal Forum II, New Delhi (in short, ?the District Forum?) in complaint case no. 493 of 2004, filed by the petitioner in which the District Forum had ordered as under:

?In view of these facts and circumstances of the case we are inclined to accept the version of the complainant that he vide his letter dated 15.05.1986 provided the details of his bank account to the OPs. However, the OPs slept over the matter and failed to do the needful. Consequently the complainant is entitled to interest by way of compensation on the refundable amount of US\$ 3,750. Hence the OPs are guilty of deficiency in service. We direct the OP 1 to pay to the complainant interest by way of compensation @ 10% per annum on the refundable amount in India rupees equivalent to 3,750 US\$ as on 01.06.1986 for the period 01.06.1986 (complainant supplied the details on 15.05.1986) to 22.01.2004 when the cheque for Rs.40,475/- was given to the complainant. The amount of Rs.40,475/- already paid shall be adjusted. This amount of interest upto 22.01.2004 shall carry further interest @ 10% per annum upto date of payment. The OP 1 shall also pay Rs.3,000/- as cost of litigation. The OP 1 is directed to comply with the order within one month of its receipt?.

We have heard Mr. Mahendra Singh Adil, Authorised Representative of the petitioner/complainant and Mrs. Girija Wadhwa, learned counsel for the respondents/opposite parties (OPs)/DDA.

(i) After hearing the parties, we find that the dispute can be narrowed down to the rate of interest that should be allowed on the refund of US\$ 3,750 and the date since which such interest should be allowed.

(ii) It is not in dispute that the petitioner expressed his inability to pay the balance cost of the flat within 75 days of the date of issue allotment-cum-demand letter. Accordingly, the DDA cancelled the allotment of the flat to the petitioner by a letter dated 11.10.1985. By this letter, the DDA also asked the petitioner to intimate his bank account details so that the amount refundable to him (US\$ 5,000 minus 25% thereof = US\$ 3,750) could be remitted to his account. It is the case of the petitioner/complainant that he informed these details to the respondent by his letter dated May 1986. However, the respondent DDA claimed that this letter was never received in its office and the petitioner/complainant finally conveyed the bank account details by his letter dated 15.05.1996. Though the receipt of the bank account details in May 1996 is clearly admitted by the DDA, there is no acceptable explanation why the actual refund was made only on 22.01.2004. (iii) It is thus not in dispute that the Rupee equivalent of US\$ 3,750(Rs.40,475/-) at the conversion rate applicable in April 1984 was paid to the petitioner/complainant by the respondent by a cheque dated 22.01.2004.

3. WHILE the authorised representative of the petitioner would argue that the interest on the amount of refund ought to be allowed @ 18% per annum from May 1986 when the petitioner furnished the bank account details, Mrs. Wadhwa has contended that the interest, if any, should be allowed from May 1996. Further, if interest @ 10% per annum on Rs.40,475/- were to be allowed for (nearly) 8 years (May 1996 to January 2004), the total amount of interest would be considerably less than Rs.50,000/- which had been awarded by the State Commission as compensation to the petitioner/complainant. Hence, according to Mrs. Wadhwa, nothing more need be paid to the petitioner/complainant.

We find no reason to differ with the District Forum on its finding that the petitioner/complainant furnished the bank account details in May 1986 in response to DDA's letter dated 11.10.1985 in this behalf. Even if the DDA's argument that this letter was not received by the respondent is accepted at its face value, it is quite clear that the DDA did not take any further action to either enquire about the petitioner's bank account details or refund the amount due to the petitioner, during the period from October 1985 to May 1996 when according to it the petitioner/complainant furnished his bank account details. Further, to compound the deficiency in service in its characteristic ways, the DDA did not actually remit the amount due to him (Rupee equivalent to US\$ 3,750) till January 2004. Also, admittedly, the amount refunded to the respondent was the Rupee equivalent of US\$ 3,750, at the exchange rate prevalent in 1984. Thus, the petitioner/complainant clearly suffered double jeopardy.

4. THE foregoing notwithstanding, we do not notice any finding of the State Commission regarding the date with effect from which the interest should have been paid to the petitioner/complainant though the prayer in his appeal was specifically about the balance US\$ 3,750 being refunded with interest @ 18% per annum with quarterly rests from the date of cancellation of the allotment to the date of payment. In our view, it was necessary for the State Commission to arrive at a finding on this prayer instead of making a bald award based on bland observations, as it did. This order cannot be sustained.

We, therefore, set aside the impugned order of the State Commission. In partly allowing the revision petition, we feel that the interest of justice and equity would be served if the petitioner/complainant is awarded interest on Rs.40,475/- from 01.06.1986 (i.e., beginning of the month following that in which he first conveyed his bank account details) to 15.01.2004 @ 10% per annum (simple). The respondent DDA is directed to make this payment (in addition to Rs.40,475/-, after deducting any

amount paid so far towards interest on Rs.40,475/-) within four weeks of the date of this order. In addition, the respondents shall pay cost of Rs.5,000/- to the petitioner within the same period.