
2003 2 CPJ 251 : 2003 2 CPR 466 : 2003 3 CLT 177

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

DELHI
DEVELOPMENT
AUTHORITY

APPELLANT

Vs

JAGMANDAR DASS
JAIN

RESPONDENT

Date of Decision: July 29, 2002

Citation: 2003 2 CPJ 251 : 2003 2 CPR 466 : 2003 3 CLT 177

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

Final Decision: Appeal dismissed

Judgement

1. THE present appeal has been filed against order of the District Forum-II dated 1.6.1998 passed in Complaint Case No. 2643/1994 entitled

Shri Jagmandar Dass Jain v. Delhi Development Authority.

2. THE facts, leading to the filing of the present appeal, in brief, are that the respondent was registered with the appellant for the allotment of a

Category III flat under the VIth Self Finance Scheme, 1985 and had deposited an amount of Rs. 15,000/- (Rs. fifteen thousand only) as

registration amount. THEREafter the respondent vide draw of lots held on 21.11.1988 was allotted a Category III flat on the ground floor Pocket

GH-10, Paschim Puri, Delhi and vide demand letter dated 24.1.1989 an amount of Rs. 2,08,779.50 (Rs. two lakhs eight thousand seven hundred

seventy nine and paise fifty only) was demanded from the respondent towards price of the flat allotted to him, after deducting/adjusting the amount

of Rs. 15,000/- (fifteen thousand only) deposited by the respondent as registration amount. Since the flat allotted to the respondent was out of the

earlier releases, he was also required to pay interest @ 10% per annum on the estimated cost of the flat from the respective due dates of the

instalments paid by the earlier allottees. THE respondent made the payment of the demanded amount of Rs. 2,08,780/- (Rs. two lakh eight

thousand seven hundred eighty only) in two instalments on 21.4.1989 and 8.5.1989 respectively. THEreafter the appellant demanded a further

amount of Rs. 75,666.85 (Rs. seventy five thousand six hundred sixty six and paise eighty five only) towards interest which amount was also paid

by the respondent on 5.9.1989 though under protest, which was lodged with the appellant by the respondent, vide letter dated 24.10.1989. THE

appellant thereafter again demanded a further sum of Rs. 5,238.20 (Rs. five thousand two hundred thirty eight and paise twenty only), as well as

Rs. 10,080.20 (Rs. ten thousand eighty and paise twenty) towards maintenance and retention charges which amounts were also duly paid by the

respondent, though out of compulsion, on account of threat of cancellation of allotment. As such it was the grievance of the respondent that he was

entitled to interest on the registration amount deposited by him for the period from 24.7.1985 to 24.1.1989 which amount had not been credited in

his favour by the appellant. Also that he was entitled to the refund of the interest amount paid under protest i.e. Rs. 75,666.85 (Rs. seventy five

thousand six hundred sixty six and paise eighty five only). It was further the grievance of the respondent that he had been over-charged for the flat

in question and as such was entitled to the refund of the amount of Rs. 23,780/- (Rs. twenty three thousand seven hundred eighty only) paid in

excess by him towards the cost of the flat and also that he was entitled to the refund of Rs. 10,080.20 (Rs. ten thousand eighty and paise twenty

only) as well as Rs. 5,238.20 (Rs. five thousand two hundred thirty eight and paise twenty only) paid by him as maintenance and retention charges

together with interest. THE respondent had also claimed a compensation of Rs. 1,00,000/- (Rs. one lakh only) and interest on the whole amount

deposited by him upto November, 1989 till the date of possession of the flat i.e., 5.9.1991 @ 15% per annum. Thus a total amount of Rs.

3,07,764.75 had been claimed by the respondent in his complaint filed before the District Forum together with interest on the said amount till the date of payment along with cost of litigation.

In its reply/written version filed before the District Forum the appellant had inter alia raised the preliminary objection that the complaint filed by the

respondent was barred by limitation as the possession of the flat in question was taken over in 1991 whereas the complaint had been filed in 1994.

On merits the defence taken by the appellant was that the interest on the registration amount of Rs. 15,000/- (Rs. fifteen thousand only) had been

duly paid and credited/adjusted in the account of the respondent towards the interest payable by the respondent. It was also stated by the

appellant that the respondent was liable to pay interest @ 10% on the various amounts of instalments as mentioned in the demand letter in order to

be brought at par with the other allottees, as the flat allotted to the respondent was out of the earlier releases. It was also alleged that there was no

delay in handing over the possession to the respondent as the respondent had himself deposited the amount of interest demanded in 1991

whereafter the possession letter had been issued to him within a month thereof. As such the complaint of the respondent being devoid of merit was

liable to be dismissed with costs.

The learned District Forum vide impugned order allowed the complaint of the respondent with the following directions to the appellant; to refund

the amount of Rs. 75,666.85 (Rs. seventy five thousand six hundred sixty six and paise eighty five only) paid as interest by the respondent; to pay

interest on the registration amount of Rs. 15,000/- (Rs. fifteen thousand only) from 24.7.1985 to 21.1.1989 at the prescribed rate of interest under

the DDA Rules; to pay interest on the amount of Rs. 2,99,446.35 (Rs. two lakh ninety nine thousand four hundred forty six and paise thirty five

only) to the respondent @ 12% per annum from 5.9.1989 to 12.8.1991 and also directed the respondent to pay to the appellant compensation of

Rs. 25,000/- (Rs. twenty five thousand only), as well as Rs. 2,500/- (Rs. two thousand five hundred only) as cost of litigation.

3. AGGRIEVED by the aforesaid order the appellant has preferred the present appeal before us.

We have carefully perused the documents/material on record as well as the written submissions filed on behalf of the respondent. We have also

deliberated upon the arguments advanced at length on behalf of the parties. The first contention raised by the respondent is that the appeal in

question is time barred as the impugned order is dated 1.6.1998 and the same has been filed on 8.12.1998 i.e. much beyond the statutory period

of 30 days prescribed for filing appeal under Section 15 of the Act. The appellant has, however, filed an application for condonation of delay along

with the present appeal. The reasons advanced for the delay in filing the present appeal on the part of the appellant are that the certified copy of the

impugned order was received by the appellant on 11.9.1998 and thereafter the file in question was examined at various levels and delay occurred

on account of administrative decisions to be taken by various concerned officials in consultation with each other.

4. IN order to decide the present application for condonation of delay, we may first refer to Section 15 of the Act, which is being reproduced

below :

15. Appeal-Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission

within a period of thirty days from the date of the order, in such form and manner as may be prescribed. : Provided that the State Commission may

entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

The above proviso to Section 15 of the Act, thus, lays down that "sufficient cause" needs to be shown, before this Commission can exercise its

powers to condone the delay. In the context "sufficient cause" would mean a cause which would justify the delay and inability of the appellant in

filing the appeal within time. However, in the present case the application of the appellant for condonation of delay together with affidavit filed,

explaining the delay, merely enumerates the dates and the officials through whose hands the concerned file of the case had passed. In fact, it

reflects a sad saga of the apathy, red-tapism and inefficiency prevailing in the departments of the appellant/DDA. Mere tossing up the file from one

table to another table would not constitute "sufficient cause" under the Act in order to enable us to condone the delay of about 57 days. In the

circumstances we are not inclined to condone the delay in filing the present appeal as no "sufficient cause" as per the requirements of proviso to

Section 15 of the Act have been assigned for the delay. In our above views, we are fortified by a decision of the Hon"ble National Commission in

the case of Vice Chairman, Delhi Development Authority v. O.P. Gauba, reported as III (1995) CPJ 18 (NC)=1986-96 CONSUMER 2731

(NS), which squarely covers the present application of the appellant for condonation of delay, it was held :

The appeal by DDA has been filed delayed by 38 days and is accompanied by an application for condonation of delay supported by an affidavit.

It is stated therein that the copy of the order dated 10.3.1993 does not appear to have been received by DDA and so a copy of the order was

obtained on 8.4.1993. The grounds for delay are given because the order had to be examined from all aspects and at various levels before a

decision to file this appeal could be given. In our views this does not constitute a valid and sufficient cause for the exercise of our discretion to

condone the delay. Proof of sufficient cause is a condition precedent for the exercise of discretion. It was the duty of the DDA to establish as to

how the matter was dealt with at all levels and each day's delay had to be satisfactorily explained. Inter office consultation for prolonged periods

cannot constitute sufficient cause for condonation of delay. The delay cannot be condoned as a matter of generosity because the process of

working in DDA has resulted in the delay. The application for condonation of delay is dismissed and consequently the appeal is dismissed as

barred by time.

(Emphasis supplied)

In another decision the Hon"ble Supreme Court in the case P.K. Ramachandran v. State of Kerala & Anr., reported as AIR 1998 SC 2276, has

held :

The High Court does not appear to have examined the reply filed by the appellant as reference to the same is conspicuous by its absence from the

order. We are not satisfied that in the facts and circumstances of this case, any explanation, much less a reasonable or satisfactory one had been

offered by the respondent - State for condonation of the inordinate delay of 565 days. Law of limitation may harshly affect a particular party but it

has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable

grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained.

(Emphasis supplied)

5. THE Hon"ble High Court of Jammu and Kashmir in the case of State of Jammu and Kashmir v. Smt. Ram Kali, reported as AIR 1987 Jammu

and Kashmir 71, while considering the question whether the norms for condonation of delay should be different for Govt. or a Statutory Body as

compared to an individual, has held :

THE delay in this case has accrued as the matter was referred to the Law Department and the office of the Executive Engineer, Chennai Hydel

Project who is dealing with the case and the Govt. office such as, Law Department etc. were also at Srinagar and the matter being in rotation

through proper channels took time. In our opinion, the above said explanation without mentioning the specific days and the reason for delay

explaining each day of delay is no cause at all much less a sufficient cause for condonation of delay in filing the revision or an appeal within the

meaning of Section 5 of the Limitation Act. We are, therefore, in full agreement with the ratio of authority of the Andhra Pradesh High Court, AIR

1973 AP 43 (supra) and hold that no exception is made for the Government in the matter of condonation of delay which is not satisfactorily

explained in terms of the Act.

(Emphasis supplied)

6. ON similar grounds for condonation of delay, as stated in the condonation application in the present case, we have in our earlier decision in the

case of Delhi Development Authority v. R.C. Jain, reported as I (2000) CPJ 141, relying upon the decision of National Commission in the case of

Maria Francis Ajijia & Anr. v. Rev. Fr. R. Ratchagar, reported as II (1994) CPJ 108 (NC), held that mere procedural delay does not constitute

sufficient cause in order to exercise our discretion for condonation of the same.

Therefore, since the present appeal is time barred we need not deliberate further on the same. However, even on merits we find that the impugned

order suffers from no infirmity, as detailed and cogent reasons have been advanced by the learned District Forum for allowing the refund of the

various amounts together with interest in favour of the respondent. In consequence the present appeal, filed by the appellant, is not maintainable as

being time barred and also being devoid of merits. As such the same is liable to be dismissed, and is dismissed accordingly. In the circumstances of

the case, however, there are no orders as to costs. The impugned order of the District Forum be complied with within 45 days of the receipt of this

order. The present appeal stands disposed of in above terms. Appeal dismissed.