

A.K. Sharma (Lt. Col.) Vs. Delhi Development Authority

A.K. Sharma (Lt. Col.) Vs. Delhi Development Authority

SooperKanoon Citation : sooperkanoon.com/1112332

Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Feb-28-2006

Judge : J.D. Kapoor, President & Mahesh Chandra, Member

Appeal No. : Complaint Case No. C-652 of 1993

Appellant : A.K. Sharma (Lt. Col.)

Respondent : Delhi Development Authority

Judgement :

J.D. Kapoor, President:

1. Complainant is an army officer. He applied for allotment of a flat under Self Financing Scheme No. 5 in Vasant Kunj and deposited a sum of Rs. 15,000 on 7th July, 1982. On having been allotted flat he was required to deposit a total estimated cost of Rs. 2,55,000 by way of instalments. The last payment was payable by 15th February, 1986 whereas the complainant deposited half of the amount of instalment on 26th May, 1986 and thereafter balance amount of Rs. 26,000 deposited on 26th December 1986. On account of delay in the payment of last instalment name of the complainant was not included in the draw of lot for allocating particular number of flats. There was a mini draw and accordingly the O.P. informed him that a flat in Kishan Garh was available for allotment but complainant insisted for allotment at Vasant Kunj and accordingly allotment letter

for flat in Vasant Kunj was issued on 6th March 1991 and the balance amount towards cost of the flat was deposited by the complainant on 6th November, 1992. Possession letter was issued on 31st December, 1992 and possession was given on 21st March, 1993.

2. Through this complaint the complainant has asked for the following reliefs:

(a) Direct the O.P. to refund a sum of Rs. 3,78,569.10 with interest @ 18% p.a. deposited by the complainant from the date of deposit to the realisation of the amount.

(b) Direct the O.P. to pay interest at the rate of 18% p.a. on Rs. 2,34,525 from July 1984 to 27.3.1993.

(c) To compensate the complainant for causing mental agony and torture to the tune of Rs. 1,50,000.

(d) Award the cost of the complaint in favour of the complainant.

3. The amount paid by the complainant towards second allotment was Rs. 3,78,569.

4. However, on factual matrix the complainant has disputed the version of O.P. and has come out with the following.

According to the complainant vide letter dated 4th February, 1997 complainant was reconfirmed about the flat at first floor, Pocket B, Vasant Kunj which was much later than the so-called delayed payment made on 16th December, 1986 and once having reconfirmed the allotment the question of cancellation of allotment did not arise.

5. On inquiry from the O.P. the complainant found that no cancellation letter was ever issued in respect of the original flat allotted in Vasant Kunj.

6. Merely because the last instalment was delayed by few months there was no reason for the O.P. not to include the name of the complainant in the first draw of lot as substantial amount had already been paid and there was no question of

including in the mini draw without having cancelled the first allotment. Since O.P. did not cancel the allotment as per terms of the allotment letter for want of payment of the last instalment or delayed payment of instalment, the name of the complainant should have been included in the first draw of lot.

7. However, in view of the fact that the flat in Kishan Garh has been allotted and possession of which has already been handed over, the complainant is entitled for compensation for the wrongful detention of the amount of Rs. 2,34,525 paid by the complainant towards the cost of first flat in 1984 whereas second flat was handed over in the year 1993.

8. Since there was no term of contract between the parties as to the liability of O.P. to pay interest on particular rate in such an eventuality we by invoking provisions of Section 14(1) of the Consumer Protection Act feel inclined to award an amount as compensation as to the loss or injury suffered by the complainant due to the deficiency in service on the part of the O.P. which is apparent on the face of it. In our view lump sum compensation of Rs. 50,000 including the cost of complaint would meet the ends of justice.

9. Complaint is disposed of in aforesaid terms.

10. A copy of this order as per the statutory requirements, be forwarded to the parties free of charge and thereafter the file be consigned to Record Room.

Complaint disposed of.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com