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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Jan-04-2005

Judge : J.D. Kapoor, President & Ms. Rumnita Mittal, Member

Appeal No. : Complaint Case No. C-86 of 1993

Appellant : Vijay Kumar

Respondent : Delhi Development Authority

Judgement :

J.D. Kapoor, President:

1. Complainant was declared successful for allotment of a flat, category MIG in Sector VII, Pkt. D-X-80, Rohini, Delhi, at a disposal cost of flat of Rs. 2,01,500/-. After depositing a sum of Rs. 35,741-97 p, with the O.P. on 15.5.1990, as per terms and conditions of the allotment letter and submitting all the documents required for confirmation of allotment, he went to the site in order to get the possession of the flat but to his surprise he found that the said flat was already in possession of some other person. However, after waiting for about 16 months he was again declared successful for allotment of flat No. 40, Block A, Pkt. 4, Sector 18, 3rd Floor, Rohini, Delhi at a disposal cost of Rs. 2,86,100/- in place of previous allotment.

2. He has now through this complaint sought following reliefs on account of negligence, carelessness, mal-practice and deficiency in service on the part of the O.P.

(1) Rs. 17,097-50 p on account of additional demand in new allotment letter.

(2) Rs. 86,600/- difference of cost of flat as is clear from the two allotment letters.

(3) Rs. 1,060-53p difference in monthly instalments.

3. Admittedly, the complainant has not only made the demand of the cost of the subsequent flat allotted to him amounting to Rs. 2,86,100/- but has also taken the possession thereof. The initial deposit of Rs. 35,741-97 p made on 15.5.1990 towards the allotment of the first flat was adjusted towards the price of the second flat.

4. The aforesaid claims of the complainant have been resisted by the O.P. DDA mainly on the premise that once having made the payment towards the cost of the second flat, allotted to him in lieu of first flat and after having taken the possession on 8.4.1992, without raising any protest either regarding the cost of the flat or the location of the flat, is stopped from raising any claim on account of double allotment of the first flat.

5. The aforesaid contention of the O.P. is difficult to accept as no consumer can be put to loss or jeopardy for no fault of his, once having allotted a particular flat at a particular location and having received the initial deposit towards the allotment of the said flat, the complainant was entitled to have the possession of the said flat in spite of its possession having been delivered to unauthorised person. In cases of double allotment it smacks of either ulterior design of the concerned official of the O.P. or of utter negligence and carelessness and cavalier attitude of the officials or officers. It is only to avoid such malpractices by the provider of service, that the mechanism of allotment of flats by draw of lots had been evolved and not on first come first served basis or on the whim or caprices of the allotting authority. It is a glaring case of deficiency in service, for which the complainant is entitled to not only compensation but also the loss he suffered on account of the conduct of the

O.P. The allotment of a subsequent flat, that too through draw of lots, in lieu of the earlier flat, was not an act of charity but the rightful claim of the complainant, which he was initially deprived of due to negligence of the O.P. Nobody can be allowed to take advantage of its own wrong and so is the case with the O.P.

6. Complainant had to pay extra amount of Rs. 17,097-50 p on account of additional demand of new allotment letter but also was compelled to shell out a huge sum of Rs. 86,600/- towards the difference of the cost of the flat between two allotments. Apart from this he had also suffered recurringly by paying Rs. 1060-53 p more towards the monthly instalments.

7. Merely because the O.P. is a Government body and considered itself to be in commanding position, does not mean that it has no commitment of obligation towards its consumer. The least the O.P. could have done in this case was to allot the second flat to the complainant at the same price as was applicable in respect of original flat allotted to him.

8. For the foregoing and self-same reasons we have no other opinion that to allow the claim of the complainant by way of the following directions:

(1) The O.P. shall either refund Rs. 86,600/- to the complainant within one month or shall treat this payment as demand made towards monthly instalments due from the complainant on the basis of the amount on monthly instalments applicable in respect of original allotment.

(2) We further award Rs. 25,000/- as compensation towards mental agony and harassment the complainant suffered as he had no other option than to accept the second allotment irrespective of disadvantage of its location.

9. We hope that the concerned Authority shall look into such matter independently and shall bring the erring officials to book so as to stop recurrence of such gross deficiency or negligence or malpractice as the case may be.

10. The complaint is disposed of in aforesaid terms.

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

Complaint disposed of.

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