

Delhi Development Authority Vs. Shanti Devi

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Jun-06-2000

Judge : Lokeshwar Prasad, President & the Honourable Ms. Justice Rumnita Mittal, Member

Appeal No. : Appeal No. A-87 of 1995

Appellant : Delhi Development Authority

Respondent : Shanti Devi

Judgement :

Rumnita Mittal, Member:

1. This appeal arises out of an order of the District Forum No. II dated 3.1.1995, passed in Case No. 2194/92 - entitled Smt. Shanti Devi v. Delhi Development Authority, Delhi.
2. The facts, relevant for the disposal of this appeal, in brief, are that the respondent Smt. Shanti Devi was allotted a first floor Flat No. 80, Sector 16, Pocket 6, Block A, in Rohini Residential Area, on hire purchase basis at a total estimated cost of Rs. 1,64,200/-. The respondent paid the initial deposit of Rs. 57,800/- on 28.2.1992 and also submitted the requisite documents on the same date. The balance price of the flat was required to be paid in 180 instalments each of Rs. 1,424.12 paise per month. The appellant issued a possession letter dated

30.1.1992 to the respondent directing the respondent to take the possession of the flat within 30 days from the date of the above letter, failing which the allotment of the flat was liable to be cancelled. It is the case of the respondent that inspite of visiting the office of the Executive Engineer RPD-5, DDA Rohini, Delhi, several times, the possession of the flat in question was not handed over to the respondent, at site. Thereafter the respondent sent reminders dated 23.4.1992 and 3.7.1992, but still the possession of the flat, allotted to her, was not delivered to the respondent. In the meanwhile, the respondent kept on paying the instalments, due, till August, 1992 and thereafter stopped making the said payments. The respondent also made representation to the Vice Chairman of the appellant/DDA but to no avail. Therefore, eventually on 4.11.1992, the respondent filed a complaint under Section 12 of the Consumer Protection Act, 1986 (hereinafter referred to as the Act).

3. The appellant contested the complaint before the District Forum on the ground that the possession letter and No Objection Certificate for water and electricity was issued to the respondent vide letter dated 6.4.1992 and that the respondent had stopped the payment of instalments, in contravention of rules and regulation prescribed in that regard. However, during the course of proceedings before the District Forum the respondent apprised the Forum that Sh. R.S. Grewal, Junior Engineer of the appellant/DDA had visited the respondent at her residence and had represented that the flat allotted to her was ready to be handed over and as such, got the possession letter signed and also delivered the keys of the flat in question to the respondent on 12.4.1993, but when the respondent visited the flat on 13.4.1993 the flat in question was found to be lacking basic amenities of water and electricity and was also not in a habitable condition. The District Forum on the basis of the evidence, as well as records before it, allowed the complaint of the respondent/complainant vide impugned order dated 3.1.1995.

4. Aggrieved by the said order the appellant/DDA has filed the present appeal before us.

5. We have heard the arguments addressed on behalf of the parties by their respective Counsel and have also carefully gone through the documents/material

on record.

6. It may be mentioned that during the pendency of the present appeal before us the necessary amenities like water, electricity and sewerage connection were made available in the flat in question as per the statement made by the Counsel for the respondent on 27.7.1999 and the present appeal is restricted to the question of liability of interest on the delayed payments and costs awarded by the District Forum. The appellant has assailed the impugned order of the District Forum on the ground that the possession of the flat was handed over to the respondent on 12.4.1993 itself and there were no defects/shortcomings in the flat in question, therefore, the learned District Forum had wrongly imposed interest at the rate of 18% on the various sums paid by the respondent and costs of Rs. 2,000/-. The above contention of the appellant is belied by its own contradictory stand taken in para-9 of its written statement dated 17.12.1993/5.2.1994 wherein it is stated that the possession of the flat would be handed over to the respondent after verifying the position. Further, the photographs, of the flat in question, placed on record, as well as the entire proceedings of this Commission go to show that the flat of which the possession is to have been delivered to the respondent was merely a possession on paper as the same being in dilapidated condition without proper provision for basic amenities like sewerage connection, water and electricity, is no possession in the eyes of law. In our above views, we stand fortified by a decision of the National Commission in case Sanjay Nagar Residents Welfare Association v. The Vice-Chairman, Ghaziabad Development Authority, reported as II (1995) CPJ 58 (NC). In the abovesaid case the National Commission has held :

It is established beyond doubt that the essential infrastructure works such as water supply lines, electricity lines, sewage, approach roads etc. in the housing complex had not been provided when the possession of the flats was commenced to be given from October, 1991. Obviously, in the absence of essential infrastructure facilities, the allottees could not beneficially enjoy them by merely taking possession of the flats. The opposite party GDA was, therefore, guilty of grave deficiency in service in the matter of housing construction.

(Emphasis supplied)

7. The above decision of the Apex Commission clinches the matter finally and following the decision of the National Commission in the case of Sanjay Nagar Residents Welfare Association (supra), we hold that there was deficiency in service on the part of the appellant and in view of the inordinate delay in handing over the possession of a habitable flat to the respondent, the interest and the costs, awarded by the learned District Forum vide impugned order are fully justified and disentitle the appellant from claiming any interest on delayed payment of instalments by the respondent.

In view of the above discussion we uphold the impugned order and the present appeal, filed by the appellant, is therefore, dismissed with costs. Costs of these proceedings fixed at Rs. 2,000/- and awarded to the respondent. The amount as per the order of the District Forum and the amount of costs in terms of the order of this Commission be paid within 30 days from the date of the receipt of this order by the appellant.

Appeal dismissed.

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