

Plus Computer System Ltd. Vs. Kalra Rai and Associates and Another

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Court : Union Territory Consumer Disputes Redressal Commission UT Chandigarh

Decided On : Nov-26-1997

Judge : J.B. Garg, President, the Honourable Mr. Sada Nand, Member & the Honourable Mrs. P. Ojha, Member

Appeal No. : Appeal Case No. 77 of 1997

Appellant : Plus Computer System Ltd.

Respondent : Kalra Rai and Associates and Another

Judgement :

J.B. Garg, President:

1. A sum of Rs. 52,250/- was paid as price on 3.7.1992 by complainant for purchase of a computer direct to M/s. Plus Computer System Ltd., Delhi. In order to meet it a sum of Rs. 41,250/- was borrowed by Shri L.R. Kalra from Delhi Financial Corporation. However the computer started causing trouble within the warranty period in April, 1993. It was entrusted to M/s. Sigma Aids, the local agent but it was never satisfactorily repaired either by the manufacturer or the local dealer. On 7.2.1997 the District Forum, Union Territory, Chandigarh ordered refund of the sum of Rs. 52,250/- together with interest @ 18% per annum w.e.f. 1.6.1993 and costs Rs. 2,000/-. Aggrieved against this decision of District Forum dated 7.2.1997 the present appeal has been attempted by M/s. Plus Computer

System Ltd., Azadpur, Delhi, the original supplier to whom the price was remitted.

2. It shall be useful to reproduce paras 6 and 7 of the affidavit of the complainant Shri L.R. Kaira dated 27.9.1995 and these are as under :

"6. That after waiting and enquiring from the dealer about the status of Hard Disk for about two and a half months, I, i.e. deponent personally requested to Mr. Sri Kant, Partner of Sigma Aids either to replace it or repair it. On that they carried away the computer also and issued a receipt thereof, vide Annexure C-4.

7. Since then the computer is lying with them and there is no hope that they will correct it. The Company or their distributor i.e. both the opposite parties have failed to deliver back the computer after repair till date. The deponent has not received even any communication from distributor to collect the computer. There is no communication to the effect that it has been repaired or it is to be replaced. The deponent has been visiting the office of the distributor during all this period but without any success."

3. There is a reply by M/s. Sigma Aids which has also been adopted by M/s. Plus Computer System Ltd., the producer and it has been averred therein that computer was lying with M/s. Sigma Aids after replacement of Hard Disk and the complainant was not coming forward to collect it. In rebuttal there is an affidavit of Shri P.C. Kaul, partner of M/s. Sigma Aids, Chandigarh, the local agent that the Hard Disk was replaced and all defects were rectified yet the complainant did not come forward to collect it for about 2 or 3 months and thereafter the computer was despatched to respondent No. 2, now the appellant, i.e. the manufacturer. Here in appeal the plea of the appellant is that the computer was still lying with respondent No. 1, the local agent. At any rate, it has not been returned to Shri L.R. Kalra, the purchaser. There is a dispute inter se the producer and the agent. The producer has laid stress on the plea that the computer is lying with the agent and the viceversa. The finding of fact arrived at by the District Forum has summarised by it, as under ;

"Opposite party No. 2 has not put forward its own version by filing the written reply, rather it adopted the reply of opposite party No. 1. No evidence has been

produced on behalf of opposite party No. 2. Counsel for opposite party No. 1 admits at the bar that the computer is lying with opposite party No. 2 since October, 1993. Opposite party No. 1 has not brought on record any job card or other document to show what were the faults in the computer and what repairs had been done to it. The computer is lying with opposite party No. 2 for the last about 3 years. O.P. No. 2 has not taken any step to return the computer to the complainant. No version of O.P. regarding condition of the computer and repairs, etc. done to it. The simple fact that the computer is lying with O.P. No. 2 for the past 3years goes to show how careless and negligent opposite party No. 2 is."

4. The complainant has not been crossexamined by either of the two respondents and as seen above there is no reliable evidence to show that the computer was satisfactorily repaired. In these circumstances we concur with the findings and decision of the District Forum that the respondent No. 1, consumer was entitled to the refund. Since the computer was utilised for nine or ten months, the order of the District Forum is modified and it is held that the appellant shall be entitled to deduct 20% from the total sum of Rs. 52,250/-. The interest shall also be payable from the date of the decision of the District Forum till realisation at the rate specified by the District Forum. The costs of Rs. 2,000/- can be recovered by the complainant from either of the two and the appeal stands disposed of.

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