

Sansari Lal Vs. Punjab Urban Planning Development Authority

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Court : Union Territory Consumer Disputes Redressal Commission UT Chandigarh

Decided On : Jan-10-1997

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

Appeal No. : Complaint Case No. 307 of 1992

Appellant : Sansari Lal

Respondent : Punjab Urban Planning Development Authority

Judgement :

J. B. Garg, President:

1. The complainant has alleged that HIG House bearing No. 730, Phase IX at S.A.S. Nagar, Mohali was allotted to him on 13.10.1984. He was required to deposit Rs. 44,688.10 and after expiry of thirty days he was to be delivered physical possession of the aforesaid dwelling unit. On a request made by the complainant the period for making the aforesaid deposit was extended upto 31.1.85. The complainant tried to obtain possession of the aforesaid dwelling unit but it could not be possible because riot affected people had migrated from Punjab and they were in unauthorised possession of the premises in question. The allotment of the aforesaid dwelling unit has been cancelled on 9.7.85 on account of non-payment and for not taking possession, though it was not available for

delivery of possession. The complainant wrote several letters on 30.10.84, 26.7.89, 13.12.90, 27.3.90, 30.4.90 and 31.6.91 requesting for restoration of the dwelling unit and annulling the order of cancellation but of no avail. The Housing Commissioner of the Board ordered on 26.7.92 in favour of the complainant but the respondent Board has failed to deliver possession. The complainant has prayed that the respondent be directed to hand over possession of the dwelling unit in question or in the alternative to pay compensation to the tune of Rs. 6 lacs.

2. The respondent filed a reply wherein it has been averred that since it was not a movable property, the dwelling unit was not covered by the term "goods"; that the complainant has not come to this Commission with clean hands and the Commission at Chandigarh had no territorial jurisdiction. Besides this on facts it has been averred that after expiry of the extended period 31.1.85 the complainant was served with a notice dated 8.4.85 but he failed to respond and the allotment was cancelled vide letter dated 9.7.1985. It has also been averred that the complainant failed to deposit the amount due in accordance with the allotment letter.

3. The learned Counsel for the complainant has referred to Lucknow Development Authority v.M.K. Gupta, III (1993) CPJ 7 (SC), wherein it has been held that the Government or semi-Government body or a local authority is amenable to the Act as any other private body rendering similar service- Thus the contention raised by the Counsel for the complainant that the complaint as such is maintainable, is hereby answered in the affirmative. In this case a perusal of the allotment letter dated 18.10.84 Annexure C1 shows that the price of the dwelling unit was Rs. 1,70,172/- and the complainant had only deposited the earnest money of Rs. 3,000/-. Thereafter he was required to deposit a sum of Rs. 42,543/- which was 25% of the tentative cost, but the complainant failed to fulfil this condition of the allotment letter Annexure C 1. We have also seen a copy of CWP No. 15220 of 1990 decided on 6.3.91 which was attempted by Gursharan Kaur and 8 others regarding HIG 730, Phase IX, S.A.S. Nagar, Mohali, which was dismissed in limine. There is nothing to suggest in the aforesaid proceedings that Sansari Lal continued to be an allottee of HIG 730, Phase IX, S.A.S. Nagar, Mohali.

4. Non-depositing of 25% of the price which was a requirement of the allotment order dated 18.10.83 was fatal and there was nothing wrong in cancellation of the allotment on 9.7.85 which finds mention in para 6 of the complaint itself. There is no specific plea that the order of cancellation was never served on the complainant. As seen above it remained proved and unchallenged that the complainant failed to deposit 25% of the price who even after obtaining an extension of 15 days which was granted to him on 8.4.85, Annexure C2.

5. In *Lalchand Dhanalal v. Dharamchand and Others*, AIR 1965 MP 102 (relying upon *Maqbul Ahmad v. Onkar Pratap Narain*, AIR 1935 PC 85), it was observed that the provisions of Section 3 of the Limitation Act are mandatory and we hold that the present complaint of Shri Sansari Lal on the face of it, is barred by time notwithstanding the fact that there is no specific plea in the pleadings.

6. In view of the evidence and reasons briefly given above, the claim for possession fails and the complaint is disposed of with the direction that the respondent shall refund the sum of Rs. 3,000/- to the complainant with interest @ 18% p.a. from the date of institution of the complaint till realisation.

7. Announced. The order be communicated to the parties free of charges.

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