

**Vinod Kumar Vs. Delhi Development Authority, Through Vice-chairman and Another**

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**Court :** Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

**Decided On :** Mar-31-2014

**Judge :** The Honourable Mrs. Justice Salma Noor, Member & the Honourable Mr. N.P. Kaushik, Judicial Member

**Appeal No. :** First Appeal No. 332 of 2010

**Appellant :** Vinod Kumar

**Respondent :** Delhi Development Authority, Through Vice-chairman and Another

**Judgement :**

N.P. Kaushik, Member (Judicial):

1. Appellant Shri Vinod Kumar has impugned the order dated 3.3.2010 passed by Consumer Disputes Redressal Forum-II, Qutab Institutional Area, New Delhi (in short the `District Forum. Vide said orders the complaint filed by the complainant/appellant in the District Forum was dismissed.

2. Facts in brief are that the complainant got himself registered with respondent/DDA for the allotment of a plot in the year 1981 under a scheme called Rohini LIG Scheme. He was allotted LIG plot bearing No.62, in Pocket-8, Sector-24, Rohini measuring 32 Sq.mtr. vide letter dated 29.10,1991. He was asked to

deposit an amount of Rs.21,229/-. Admittedly, the complainant deposited the aforesaid amount in three instalments and as and when called upon to do so. He remained in touch with the DDA for handing him over the physical possession of the plot. He did not receive any letter from DDA informing him of the status of allotment. Last such letter in the series written to the DDA is dated 24.3.2003. Vide this letter the complainant had sent photocopies of his specimen signatures, copy of ration card etc. He informed the DDA that he had completed all the requisite formalities vide letter dated 6.6.2003. DDA informed the complainant that it had restored the registration for allotment of another plot in phase-III or phase-IV of Rohini subject to the payment of restoration charges @ Rs.300/- per sq.mtr. and subject to the availability of plot. The complainant through his letter dated 16.6.2003 conveyed his acceptance for allotment of alternate plot and gave an undertaking to pay restoration charges @ Rs.300/- per sq.mt. The complainant thereafter received a letter dated 23.9.2003 from DDA allotting him the plot bearing No.60, Pocket-II, Block-1, Sector-16 measuring 34 Sq.mt. in Rohini, Delhi in lieu of the old plot No.62, in Pocket-8, Sector-24, Rohini, Delhi. Vide said letter, he was asked to pay balance amount of the premium as per details given below:-

1	Premium of plot @Rs.6224/- per sq.mtr.for 32 sq.mtr.	1,99,168.00
2	Premium of plot @ 18546 per sq.mtr. for 2 sq.mtrs.	37,092.00
3	Restoration charges @ Rs.300/- per sq.mtr.	10,200.00
4	Corner charges/Location charges on 24 mtr. Road or above @ 10% of the premium	
5	Documentation charges	100.00
	Total	2,46,560.00

3. Vide letter dated 17.2.2004, DDA sent a Show Cause Notice to the complainant informing him that he was required to pay the first instalment of 35% of the

premium of land within 60 days of the letter of demand. He was also informed that he had failed to pay the amount demanded within the stipulated period. He was asked to explain within 15 days from the date of issue of show cause notice whether he had to say anything. In case of his failure to respond, the allotment would stand withdrawn and registration cancelled. Complainant vide his letter dated 1.3.2004 informed the DDA that he had filed a complaint in the District Forum under Consumer Protection Act, 1986. Complainant while referring to the contents of his complaint in the District Forum stated that the issuance of show cause notice was unethical and illegal. Complainant however asked for an opportunity of being heard personally (by DDA).

4. To make the things more clear, the complainant had filed a complaint in the District Forum on 29.12.2003. Vide said complaint, the complainant prayed for directions to DDA to re-issue him the letter of allotment dated 23.9.2003/29.9.2003 without demanding the premium as indicated above. In other words the complainant prayed for allotment of the plot at the old rates at which the Plot No.62, Sector-24, Phase-III, Rohini measuring 32 Sq.mt. was allotted to him.

5. The alleged development of cancellation of the plot took place after the institution of the complaint as the show cause notice is dated 17.2.2004. The impugned orders dated 3.3.2010 are challenged on the grounds inter alia that there was no default on the part of the complainant at any stage of either making payment of instalments or submitting the document in respect of the old plot bearing No.62. Next submission of the appellant is that the letters dated 14.8.2000, 20.10.2000, 25.1.2001, 3.4.2001 and 16.4.2001 written by the complainant to DDA were not replied to. Vide letter dated 23.2.2001, DDA asked him to submit certain documents and visit their office. Complainant was informed by Mrs. Urmila Sharma, Assistant Director DDA that the documents submitted by him were not traceable in their office. The documents were again submitted by the complainant. Complainant received a letter dated 2.1.2002 for the verification of genuineness of the documents. Complainant was orally informed that his earlier allotment of the plot was cancelled on account of nonpayment of the balance amount. Various representations submitted by the complainant thereafter led to the issuance of the letter dated 6.6.2013 by the DDA vide which he was offered

alternate plot in phase-II and phase-IV of Ronini, Delhi subject to the payment of the restoration charges @ Rs.300/- per sq.mtr.

6. On the basis of the aforesaid matrix of facts, the following questions arise for consideration:

i) Whether the complainant committed any default in making payments for the old plot bearing No.62, Sector-24, Rohini, Delhi and if there was any cancellation of the said allotment?

ii) Whether after giving an offer of alternate plot on restoration charges @ Rs.300/- per sq.mtr., the DDA was entitled to charge premium vide his letter dated 23.9.2003/29.9.2003?

7. The complainant has placed on record the details of various challans vide which he had paid the amount of Rs.1951.40 on 20.11.91, Rs.10,592/- on 25.1.92 and Rs.5296/- on 11.2.93. He had also furnished the copies of such challans to DDA. Admittedly, DDA failed to establish if there was any default on the part of the complainant in making payments towards the allotment of old plot. Controversy in relation to the allotment of the old plot came to an end when DDA issued letter dated 6.6.2003 offering the complainant to allot a new plot on payment of restoration charges @ Rs.300/- per sq.ft. Admittedly, the complainant gave his acceptance of the said offer by sending letter dated 16.6.2003 and gave an undertaking to pay restoration charges @ Rs.300/- per sq.mtr. Now, the question arises as to whether the DDA was justified in asking for premium on the allotment of the new plot bearing No.60, Sector-16, Rohini, Delhi. The premium in all amounted to Rs.2,46,560/-. It was demanded by the DDA with the offer of allotment of a new plot on payment of restoration charges of Rs.300/- per sq.mtr.. It was incumbent upon DDA to state in the said letter of offer if it wished to charge the said premium. No such offer was made by the DDA while inviting his acceptance. Admittedly, the complainant gave his acceptance on 16.6.2003 and undertook to pay restoration charges of Rs.300/- per sq.mtr.

8. As discussed above, the complainant was not a defaulter in making payments for the old plot No.62, Sector-24, Rohini. DDA offered him to accept another plot

on payment of restoration charges alone. It was not permissible to DDA thereafter to come up with a letter of demand calling upon the complainant to pay the premium of Rs.2,46,560/-. The condition of payment of premium or charges at the rates prevalent in the year 2003 ought have found a mention in the latter of offer. DDA was rectifying its error as the old plot was not available with it when the complainant furnished his documents for the second time to DDA on its demand. The demand for any premium was, therefore, not justified.

9. The Counsel for the DDA Ms. Arti Bansal, Advocate argued that even the allotment of the new plot bearing No.60, Sector-16, Rohini, Delhi stood cancelled as the complainant failed to pay the premium as demanded by DDA. On the contrary, Counsel for the appellant/complainant Shri Pramod Kumar Sharma, Advocate has taken us through the para-wise comments furnished by DDA on an application. Last para of the said comments reads as under:-

œAllotment of plot No.60, Pocket I-II, Sector 16 measuring 34.00 sq.mtrs. is liable to be cancelled as the complainant has failed to comply with the terms and conditions of allotment letter dated 23.9.2003 to 29.9.2003 for which show cause notice dated 17.2.2004 has already been issued to him?.

10. The comments are undated and do not bear the date and month but these were filed in the year 2004. Even during the pendency of the complaint before the District Forum, the DDA had not specifically cancelled the new plot bearing No.60, Sector-16, Rohini, Delhi. It had simply stated that the said plot was liable to be cancelled as the premium demanded vide letter dated 23.9.2003/29.9.2003 was not paid. DDA also referred to the show cause notice dated 17.2.2004 sent to the complainant. Vide said show cause notice, DDA had not cancelled the allotment of the new plot. It asked the complainant to submit his explanation within 15 days of the date of issue of the letter. Admittedly, the complainant furnished his explanation vide his letter dated 1.3.2004. There is no communication from the side of DDA expressing its dissatisfaction or otherwise to the said explanation. Clearly there was no cancellation of allotment of new plot too.

11. In view of the discussion above, we are of the considered opinion that the complainant is entitled to the allotment of a plot measuring 34 sq.mtrs. by the

DDA.

12. During the course of arguments, Counsel for the DDA Ms. Arti Bansal, Advocate stated that as on date no plot was available in the whole of the residential scheme of Rohini, Delhi. Counsel further stated that any decree passed by this Commission shall not be executable. On the Contrary complainant and his Counsel Shri Pramod Kumar Sharma made a statement which has been separately recorded. They stated that that the allotment of a plot measuring 34 Sq.mtrs. to the complainant anywhere in Delhi would satisfy their claim.

13. Under these circumstances we allow the appeal of the appellant/complainant and set aside the impugned orders dated 3.3.2010 passed by the District Forum-II in complaint case No.1630/2003. DDA is directed to allot a plot measuring 34 Sq.mtrs. to the complainant within a period of three months from the date of these orders anywhere in Delhi. . Complainant had got his plot (old one) booked in the year 1981. No allotment was made in his favour until 2004. DDA failed to provide its services in a span of 23 years. Respondent/DDA is hence directed to pay compensation of Rs.3,00,000/- (Rupees three lakhs) on account of mental agony and harassment along with litigation expenses of Rupees one lakh within a period of 30 days. In the event of failure of the DDA to pay the aforesaid amount of compensation and litigation expenses within the stipulated period, it would be liable to pay interest @ 10% p.a. from the date of payment till its realization. In the event of DDA failing to allot the plot to the complainants within the stipulated period, a penalty of Rs.1000/- per day shall be liable to be paid to the complainant.

14. DDA is at liberty to charge price of extra 2 mtrs. of land at the same rates which were applicable in respect of the old plot at the time of registration of the complainant/appellant with DDA.

15. Copy of this order be provided to the parties free of costs. A copy be sent to the District Forum. File be consigned to Record Room.

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