

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW  
APPEAL NO. 615 OF 1999

(Against the judgment/order dated 08-02-1999 in Complaint  
Case No.502/1994 of the District Consumer Forum, Ghaziabad)

Ghaziabad Development Authority

Vs. ....Appellant

Sri Anil Kumar Tyagi

.....Respondent

APPEAL NO. 624 OF 1999

(Against the judgment/order dated 08-02-1999 in Complaint  
Case No.500/1994 of the District Consumer Forum, Ghaziabad)

Ghaziabad Development Authority

Vs. ....Appellant

Sri Hari Om Tyagi

.....Respondent

APPEAL NO. 631 OF 1999

(Against the judgment/order dated 08-02-1999 in Complaint  
Case No.1468/1994 of the District Consumer Forum, Ghaziabad)

Ghaziabad Development Authority

Vs. ....Appellant

Sri Mangu Singh Tyagi

.....Respondent

APPEAL NO. 632 OF 1999

(Against the judgment/order dated 08-02-1999 in Complaint  
Case No.1472/1994 of the District Consumer Forum, Ghaziabad)

Ghaziabad Development Authority

Vs. ....Appellant

Sri Har Saran

.....Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT**

**HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER**

**HON'BLE MR. RAMPAL SINGH, MEMBER**

For the Appellant : Sri V S Bisaria, Advocate.

For the Respondent : None appears.

Dated : 02-11-2010

*Rampal*

*[Signature]*

*[Signature]*

**JUDGMENT**

**MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)**

All the four appeals having arisen out of one and the same judgment dated 08-02-1999 of the District Consumer Forum, Ghaziabad are taken up together for disposal.

Heard Sri V S Bisaria, learned Counsel for the appellant. None is present on behalf of the respondents despite the cause-list of date having been shown on Internet.

Since all these appeals are eleven years old appeal, we deem it appropriate to decide them on merit.

Basically two issues are involved in the present litigation – the first being as to whether the Ghaziabad Development Authority is liable to pay interest on the amount in deposit and secondly whether the respondents are entitled to claim possession of the plots allotted to them.

We take up the second issue first. A perusal of the record would show that in accordance with the terms and conditions, the farmers of the Residential Vaishali Scheme were allotted residential plots of 112 square meters and 200 square meters on payment of Rs.77,840/- and Rs.1,39,900/- respectively. Whereas Sri Hari Om Tyagi and Sri Anil Kumar Tyagi had opted for the smaller plots i.e. measuring 112 square meters, the other two respondents had preferred the bigger ones measuring 200 square meters each. The payment was to be made in six half yearly instalments as per schedule drawn and communicated to each respondent. The first instalment was due on 02-03-1991 and the payment had to be completed by depositing sixth instalment in March, 1994. It appears that the respondents did not deposit the sixth instalment in time but they made the payment good during the pendency of their complaints as is borne out from the letter of demands. The respondents alongwith 19 more allottees had filed their complaints seeking delivery of possession and claiming payment of interest for the delay that had occurred in handing over of the possession to them. The Ghaziabad Development Authority was willing to handover possession in July, 1995 and a letter on 06-07-1995 was despatched to all these respondents asking them to

Beej

take possession of the plots allotted to them after completing all the requisite formalities including payment of lease rent and sewer charges etc. This offer regarding delivery of possession was never retracted and the Development Authority was ever since and is willing and ready to execute the sale deed and handover possession of the plots. We are, therefore, inclined to hold that all the respondents shall be entitled to fetch possession over the respective plots allotted to them – of course after completing the requisite formalities by the individual as asked by the Development Authority. However, since the entire payment has already been made, no other demand except that of lease rent, sewer charges etc. shall be entertainable.

Adverting to the first issue regarding payment of interest it can be observed that in the terms of allotment no specific date for delivery of possession had been mentioned. If we look into the allotment letters we find that the provisions of para-3 were specific and clear. Para-3 provides as under:-

*“ you will be separately informed about the date of possession and other formalities which you will have to comply in a time bound manner otherwise action, as may be prescribed from time to time by the Authority and/or State Government, shall be taken against you.”*

On the face of the provisions referred to above it would be difficult for us to subscribe to the respondents' version that they were entitled to claim possession at a specific point of time even after the last instalment had been <sup>paid</sup> ~~completed~~. It is thus abundantly clear that the Development Authority could not be compelled to handover possession of the plots in a time bound manner but it is reasonable to observe that possession of a plot or a flat must be handed over within a reasonable period after the last instalment is deposited. In this context, reference can be made to a decision of the Hon'ble National Commission in 'Samachar Vihar Sekhari Avas Samiti Limited V/s G.D.A.' II(1995) CPJ-168(NC). It has been ruled in this decision that two years period from the date of payment of last instalment would be a reasonable period for handing over possession

Prasad

→

Q

of a plot. In the case in hand also the Ghaziabad Development Authority was expected to handover factual possession of the plots within two years from March, 1994 and as said above the Authority had issued letters in July, 1995 asking them to complete the requisite formalities and take possession of the plots. Obviously thus the Ghaziabad Development Authority had discharged its obligation by making an offer regarding delivery of possession and in that situation it would be unjust and unfair to fasten upon it the liability of interest. It appears that since all the respondents alongwith 19 others were litigating their cases in the District Consumer Forum, they preferred to wait for the orders of the District Consumer Forum and it was in these circumstances perhaps that neither the respondents came forward to accept delivery of possession, nor they completed the requisite formalities required for execution of the deeds etc. It took more than four years for the District Consumer Forum to finally decide the respondents' complaint by means of a common judgment under challenge. The District Consumer Forum held that there was unreasonable delay on the part of the Development Authority in handing over possession to the allottees. The letter of 6-7-1995 could not find place in the written statement of the Ghaziabad Development Authority as it had already submitted its written statement in all the cases in the month of May, 1995. The genuineness of the letters of the aforesaid date cannot be doubted as the appellant Development Authority has proved from record with reference to the letter numbers etc. that the letters were despatched to the allottees in July, 1995. Therefore, having regard to the contents of this letter we absolve the Ghaziabad Development Authority of its liability to pay any interest for the alleged delay in handing over possession of the plots to the respondents.

In the result, all these appeals stand allowed and accordingly the Ghaziabad Development Authority is relieved of its liability to pay any interest. However, it shall be the obligation of the Development Authority to handover possession to all the four respondents within three months from today. If it has already been handed over with execution of the deeds it would cater the need of the respondents. In case the

Page 4

99

99

:5:

execution of the deed, is still held up it shall be so done within the aforesaid period failing which the Ghaziabad Development Authority's liability to pay interest shall stand revived. Indeed the respondents shall complete the requisite formalities.

This judgment shall be placed on the record of Appeal No.615/1999 with its copy to be laid on the record of Appeals No. 624/1999, 631/1999 and 632/1999.



(JUSTICE BHANWAR SINGH)  
PRESIDENT



(SYED ALI AZHAR RIZVI)  
MEMBER



02.11.01  
(RAMPAL SINGH)  
MEMBER

pnt