

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW.

APPEAL NO. 1474 OF 1995

(Against the judgment/order dated 25.8.1995 in Complaint Case
No.493/94 of the District Consumer Forum, Shahjahanpur)

Avas Ayukt, Uttar Pradesh Avas Evam Vikas Parishad .
& others ...Appellants

Versus

Rajendra Prasad SharmaRespondent

BEFORE:-

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT.

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

HON'BLE MR. RAMPAL SINGH, MEMBER.

For the Appellants : Mr. Manoj Mohan, Advocate.

For the Respondent : None.

Dated : 20.7.2010

JUDGMENT

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

Heard Mr. Manoj Mohan, learned counsel for the Avas Evam Vikas Parishad. None is present on behalf of the respondent/complainant, even though the cause list of date has been shown on the Internet.

The dispute pertains to an MIG house situated in the town of Rishikesh, geographically falling within the territorial jurisdiction of Uttarakhand State. Although the respondent had filed his complaint in the year 1994 (Complaint No.493 of 1994) i.e. long before Uttarakhand had been carved out in the year 2000 yet institution of complaint in the district Shahjahanpur by the complainant who hailed from that district was not in accordance with the provisions of law. The complaint could be filed before the District Consumer Forum Dehradun, in whose jurisdiction the office of Avas Evam Vikas Parishad dealing with the allotment of residential flats to the applicants in respect of the land situated within the jurisdiction of Dehradun district was located and also the allotted flat had its location. We understand that Rishikesh now is a part of district Pauri. Be that as it may filing of a complaint before the District Consumer Forum, Shahjahanpur was not in consonance with the law as such a complaint could be filed either before the District

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Consumer Forum, Dehradun or subsequently in the District Consumer Forum, Pauri (had the cause of action survived). Therefore, we are inclined to hold that the impugned order passed by the District Consumer Forum, Shahjahanpur is without jurisdiction and as such not valid and sustainable. It deserves to be quashed.

Accordingly, the impugned order dated 25.8.1995 whereby Avas Evam Vikas Parishad were directed to handover possession of the MIG flat on payment of Rs.2,88,662.00 only is hereby quashed. Even otherwise, the complaint was not maintainable as the allotment had already been cancelled vide letter dated 14.9.1993 on account of the complainant having failed to deposit the entire price as claimed. Though not necessary yet it seems to be relevant that Avas Evam Vikas Parishad demanded Rs.3,05,636.00 ^{at the} finally determined price, of course with the adjustment of Rs.2,88,662.00 but since the complainant failed to comply with the demand the Avas Evam Vikas Parishad was left with no option except to issue a cancellation order. Since a Development Authority is fully competent to determine the final cost of a house, having regard to the cost of construction, we are of the opinion that the decision of the Parishad regarding demand of the escalated price which was quite reasonable can be termed to be as justified.

In the result, this appeal succeeds and it is hereby allowed. The impugned order is quashed and the complaint of the complainant stands dismissed.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(SYED ALI AZHAR RIZVI)
MEMBER


20.7.10
(RAM PAL SINGH)
MEMBER

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