

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW
APPEAL NO. 765 OF 2003**

(Against the judgment/order dated 11-09-2002 in Complaint
Case No.155/1999 of the District Consumer Forum, Gorakhpur)

Gorakhpur Development Authority

.....Appellant

Vs.

Smt. Vimal Devi

.....Respondent

BEFORE:

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT
HON'BLE MR. CHANDRA BHAL SRIVASTAVA, MEMBER
HON'BLE MR. YASHPAL SHARMA, MEMBER**

For the Appellant : None appears.

For the Respondent : Sri B K Upadhyaya, Advocate.

Dated : 24-03-2011

JUDGMENT

MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

The case called out. None responds on behalf of the appellant despite the fact that the cause-list of date has been displayed on the Internet. On the other hand, Sri B K Upadhyaya, learned Counsel for the respondent/complainant is present. He insists that it is an old matter of the year 1997 and has unnecessarily been lingering on for about 14 years, therefore, it may be finally disposed of on merit. The contention-cum-request appears to be sustainable and, therefore, we proceed to decide this appeal on merit.

The facts which have not been disputed are that the complainant applied for allotment of a plot in Buddha Vihar Residential Colony of Gorakhpur Development Authority. She, being a successful candidate in the lottery draw, was allotted Plot No.E-66 of the said colony. She had to deposit a total sum of Rs.69,289/- upto 17-09-1997 but subsequently she changed her mind and instead of going for delivery of possession she disassociated herself from the scheme and requested the Development Authority for refund of her money i.e. Rs.27,716/- which she has deposited as registration amount. The Development Authority deducted more than half of the money on the ground that the complainant was

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liable to compensate on account of interest which she might have been asked to pay on the total price of the plot. Such a logic pressed into service does not appear to be sustainable particularly when clause-2 of the scheme as recited in the brochure before us merely provided for deduction of 20% amount. In other words, there was a commitment of the Development Authority to refund the registration amount with deduction of 20% and nothing more. Having regard to this provision in the brochure which does not seem to have any kind of ambiguity, we are of the decisive view that the Development Authority's decision to refund merely a sum of Rs.12,471/- was unjust, arbitrary and unreasonable. Accordingly we hold that the complainant would be entitled to get refund of her money in accordance with the terms of brochure. As informed by Sri B K Upadhyaya she has already received Rs.12,471/- and the balance of Rs.9,701/- is to be paid to her. Indeed she is entitled to get the said sum of Rs.9,701/-. It appears that on account of an inadvertence and typographical error the figures of 9701 have been printed as 7901 in the operative portion of the impugned judgment. The complainant, as submitted by Sri B K Upadhyaya, does not mind if the deduction of Rs.5,544/- i.e. 20% of the registration money has already been made.

In the result, as we hold, this appeal stands dismissed with minor modification of the impugned judgment to the effect that instead of Rs.7,901/- the complainant would be entitled to get from the appellant Authority the balance amount of Rs.9,701/- alongwith interest @ 10% per annum.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(CHANDRA BHAL SRIVASTAVA)
MEMBER


(YASHPAL SHARMA)
MEMBER