

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW.

APPEAL NO.932 OF 1998

(Against the judgment/order dated 31.3.1998 in Complaint Case  
No.557/97 of the District Consumer Forum, Ghaziabad)

Ghaziabad Development Authority , ...Appellant  
Versus  
Shri Ratan Lal .....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 : Mr. S.K. Sharma, Advocate.

For the Respondent : None.

Dated : 1.12.2010

JUDGMENT

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

The case called out. Mr. S.K. Sharma, learned counsel for the Ghaziabad Development Authority is present. However, none responds on behalf of the respondent despite a notice having been sent to him whereby he was informed that this case would be taken up today.

Since it is an old appeal of the year 1998, we proceed to decide it on merit.

The instant appeal has been filed against the impugned judgment dated 31.1.1998 of the District Consumer Forum, Ghaziabad whereby interest @ 18% p.a. was awarded in favour of the complainant. The complainant applied for an LIG Flat in Indirapuram Apartment scheme of the Ghaziabad Development Authority in the year 1989 and deposited a sum of Rs.72,220.00 as part of the price. Despite a lapse of a long period of 7 years, the Development Authority was unable to handover possession of the flat earmarked for the complainant. The Authority informed the complainant of its inability vide its letter dated 13/15.8.1994 and thereby informed him that he could opt for a similar house in another residential scheme. However, a fresh offer for allotment of an alternative arrangement was not acceptable to the complainant and, therefore, he declined to go for any other house in the

Recd.

(2)

same residential scheme. He, therefore, prayed for refund of his money which was acceded to but without any interest. It was in these circumstances that the complainant was obliged to file his complaint before the District Consumer Forum, Ghaziabad. The District Consumer Forum after having scrutinized the pleadings of the parties and the evidence led in support thereof recorded a finding of deficiency in service on the part of the Development Authority and accordingly, awarded interest on the complainant's money which remained in its coffers for as long as 7 years. The interest was awarded @ 18% p.a. The Development Authority felt aggrieved of this award and preferred the present appeal.

Learned counsel appearing for the Development Authority has submitted that there are two reasons on the basis of which the rate of interest should be reduced. Firstly, that the complainant was not an allottee of the flat as only a letter reserving a house for him had been issued to him; and secondly, the Development Authority having a bona-fide reason not to develop the relevant Indirapuram residential scheme had offered allotment of another house in the same colony.

Insofar as the second aspect of the matter is concerned, it can be observed that the offer could not be imposed upon the complainant as every applicant wants to take a house of his own choice having regard to the various facts such as location, distance of the house from important landmarks like railway station and educational institutions and above all the price. In the case in hand the price of the house offered in the alternative was definitely higher than that of the flat initially earmarked for the complainant. We are, therefore, of the decisive view that mere offer of an alternative flat does not provide a good rational to reduce the rate of interest.

However, the first aspect of the matter seems to carry some force. It is borne out from the record that the complainant had not been allotted a house rather he was informed that a flat had been reserved and earmarked for him which will be allotted to him after construction was complete. Undoubtedly, there is a distinction between the rights of two persons- one being an allottee of a house and the other for whom a

Bagh

—B


—Q

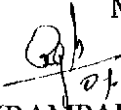
(3)

house has simply been earmarked. Having regard to this distinction in our view, we reduce the rate of interest from 18% to 12% p.a.

With this modification, we dispose of this appeal which stands partly allowed. The complainant shall be entitled to get 12% interest p.a. on the money he had deposited with Development Authority w.e.f. the date of deposit until the payment was made.

  
(JUSTICE BHANWAR SINGH)  
PRESIDENT

  
(SYED ALI AZHAR RIZVI)  
MEMBER

  
07/12/10  
(RAMPAL SINGH)  
MEMBER

Jafri