

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
HARYANA, PANCHKULA.

First Appeal No. 1631 of 2005
Date of Institution: 6.9.2005
Date of Decision: 14.09.2011

The Estate Officer, HUDA, Sonipat.

.....Appellant

Versus

Savita Kumari D/o Faridabad, Sh. Satyavan Singh Shastri R/o 327 Prabhu Nagar
Behind Suri Petrol Pump Sonipat.

.....Respondent

BEFORE:-

Hon'ble Mr. Justice R.S. Madan, President.
Mr. B.M. Bedi, Judicial Member.

Present:- Mr. Sikander Bakshi, Adv., for the appellant.
None for the respondent.

ORDER:

B.M.BEDI, JUDICIAL MEMBER:

Challenge in this appeal is to the order dated 26.5.2005 passed by District
Consumer Disputes Redressal Forum Panchkula, vide which the complaint was
disposed off and following order was passed:-

In the result, the instant complaint is hereby allowed
and the Ops are hereby directed:-

- a) to pay interest-compensation at the rate of
12% P.A. on the amount deposited before
14.6.2003 w.e.f. 14.6.2003 till 12.3.2004 the
date when possession was offered.
- b) And also to pay a sum of Rs.1000/- as cost
of proceedings."

The brief facts of the present case are that the plot no. 1739 Sector-12
Sonepat was initially allotted to Jawhar Lal Wadhwa vide allotment letter 5768
dated 3.5.1995. The complainant visited several times in the office of OP NO.2
for possession of the plot. The OP replied that said plot in question was deleted

from the scheme and if the complainant wants any other plot he may send his consent in writing. Consent for other plot was sent by the complainant but nothing was done by the Ops. The complaint filed a complaint and Ops allotted plot No.1275 AP 12, Sonapat to the applicant vide memo No.1588 dated 14.6.2001. Therefore the claim of alternative plot had become infructuous. District Forum allowed some interest to the applicant while deciding the complainant vide order dated 31.7.2002. When she visited the site of re-allotted plot No. 1275 AP/12 Sonapat, it was found that the area was not fully developed. The Ops did not give the possession of the plot to the complainant. The complainant had to file another complain for directing the Ops to allot alternative plot in lieu of plot No.1275-AP/12, Sonapat but the said complaint was dismissed illegally being barred by principle of construction resjudicata.

Notice being issued, opposite parties contested, raising plea that the Forum had no jurisdiction to entertain and try the present complaint in view of Section 50 of HUDA Act, 1977, number of facts and law points were involved in the complaint, which cannot be entertained and tried by the forum and the complaint was barred by res judicata. It was asserted that the possession stood offered on 12.3.2004 as per condition No.7 of the allotment letter and the interest compensation had already been paid w.e.f. 9.7.98 to 14.6.2001 as per order dated 31.7.2002 passed by the Forum.

On appraisal of the pleadings of the parties and evidence adduced on record the District Forum allowed off the complaint by granted relief as noticed in the opening para of this order .

Aggrieved thereby, appellant-opposite party has come up in appeal.

We have heard the Learned Counsel for the appellant and perused the case file thoroughly.

It is not disputed that plot was allotted to Jawahar Lal Wadhwa and later it was transferred in the name of complainant Ms Savita Kumari. Thus, certainly



complainant who would be a re-allottee would not be a consumer in view of the judgment titled as *Haryana Urban Development Authority Versus Raje Ram, 1(2009) CPJ, 56* wherein the Hon'ble Supreme Court has held:-

“Housing-Re-allotment-Interest-Award of-Where possession given at old rate, party has got benefit of escalation in price of land, interest should not be awarded on amounts paid by allottees due to delay in allotment-Respondents re-allottees aware about delay - Cannot be compared with original allottees, who waited for a decade or more for delivery of possession-Possession delivered- Consumer complaint filed within short period from date of re-allotment, without paying full price-Award of interest neither warranted, nor justified- Orders of District Forum, State and National Commission awarding interest set aside.”

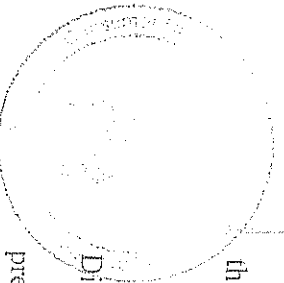
The facts of the present case are fully attracted to the ‘Raje Ram’ case (Supra).

It is a case wherein the complainant had purchased the plot from Jawahar Lal Wadhwa and on the date of purchase of the plot the complainant had full knowledge about the factual situation of plot. In other words she had purchased the plot in question with open eyes. A re-allottee cannot be treated as “Consumer” and therefore cannot continue with complaint. A re-allottee has every right to claim and enjoy the plot which was purchased by him from the original allottee but has no right to comment upon status of payment position as such right is available only to the original allottee with whom HUDA has entered into contract.

The re-allottee is a third party and thus, cannot enforce the terms and conditions of agreement entered between original allottee and HUDA.

Thus, under the facts and circumstances of the case, we are of the view that the complainant being a re-allottee is not entitled for any relief claimed.

The second question for consideration before us is as to whether the District Consumer Forum at Panchkula has territorial jurisdiction to decide the present complaint.



Admittedly the plot was situated at Sonapat, the complainant filed complaint at Panchkula, which was allowed. No cause of action has arisen at Panchkula. Merely because an office of OP situated at Panchkula would not confer jurisdiction upon District Consumer Forum at Panchkula.

We have gone through the impugned order, facts and circumstances of the case as well as case law settled by the Hon'ble National commission in case titled "R.B. Jagdish Prasad & company Vs. Oriental Insurance Company Ltd." reported in IV (2008) CPJ 159, wherein it has been held that "complainant could not have been filed in Delhi, because Head office of Insurance Company is situated in Delhi."

The plea taken by the complainant in the complaint is that her complaint is maintainable before the District Forum, Panchkula because Head Office of the Opposite parties is located at Panchkula, is not acceptable in view of the above R.B.Jagdish Prasad case (supra). But this fact has not been considered by the District Forum, Panchkula at the time of passing of the impugned order. Any order passing without having the territorial jurisdiction cannot be allowed to sustain.

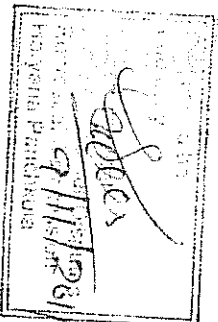
Accordingly, this appeal is accepted, impugned order is set aside and complaint of the complainant is dismissed.

The statutory amount of Rs.9120/- deposited at the time of filing of the present appeal be refunded to the appellant against proper receipt and due verification as per rules on the subject, after the expiry of period of appeal and revision, if any, filed in this case.

Announced,
14.09.2011

Sd/-
Justice R.S. Madan,
President.

Sd/-
B.M. Bedi,
Judicial Member.



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