

SUPREME COURT OF INDIA

HUDA

Vs.

Diwan Singh

C.A.No.3409 of 2003

(R.V.Raveendran and Aftab Alam JJ.)

23.10.2008

ORDER

1. Plot No. 2163P in Sector 13, Bhiwani was allotted by the Appellant in the year 1990, and on the request of the original allottee, it was re-allotted to the respondent by the appellant on 21.4.1998. In the year 1999, respondent approached the District Consumer Disputes Redressal Forum, Bhiwani, alleging that in spite of payment of the full price, the appellant had failed to deliver possession, on account of non-completion of development. He therefore sought three reliefs. First, a direction to the appellant to pay interest at 24% per annum on the amounts deposited, till the date of delivery of possession (after removing the road laid over a part of the plot). Second was for a direction to the appellant not to charge any extension fee after 1994 or any interest on the extension fee. Third was for payment of compensation of Rs.1,00,000/- for harassment and suffering. The appellant resisted the claim on several grounds and also alleged that it had offered possession in 1994 and again in May 1998. The District Forum by its order dated 10.8.1999 accepted the contention of the respondent that there was no effective offer of delivery of possession in May 1998 and awarded interest at 18% per annum on the amounts deposited, with effect from the date commencing on the expiry of two years from the date of deposit, till date of fresh offer of possession with a further direction to the appellant not to charge interest on the extension fee. The prayer for compensation for suffering/mental agony was rejected.

2. The appeal filed by the appellant was dismissed by the State Consumer Disputes Redressal Commission on 21.9.1999 by a non-speaking order on the ground that there was no merit in the appeal. It assumed that District Forum had awarded interest at the rate 15% per annum and there was nothing wrong in it. During the pendency of the appeal, the appellant claims to have made a fresh offer of possession on 13.9.1999. According to it, the respondent did not take possession.

3. The appellant challenged the order of the State Commission in a Revision filed before the National Consumer Disputes Redressal Commission. The National Commission by a non-speaking order dated 27.8.2002 disposed of the Revision Petition in terms of its decision in

HUDA v. Darsh Kumar (Revision petition No. 1197 of 1998) wherein it had upheld the award of interest even at 18% per annum.

4. The respondent has not surrendered the allotment nor sought refund of the amounts deposited. The reliefs sought in the complaint before the District Forum were only in regard to claim for interest on the payments made and not for refund of the amount paid towards price. It is thus to be inferred that respondent is still interested in the plot. The appellant has again offered to deliver possession in September, 1999. It is open to the respondent to take possession.

5. The only issue raised by the appellant in this appeal is in regard to interest. It is pointed out that direction for payment of interest at 18% per annum is contrary to the decisions of this Court.

6. One significant aspect to be noticed is that respondent is not the allottee who was allotted the plot in 1990, but a re-allottee who was re-allotted the plot in April 1998. When he was offered possession of the plot in May 1998, he found that a part of it was used for purposes of road. Thereafter, the appellant even offered an alternative plot. The respondent however rushed to the District Forum in 1999, hardly within a year of re-allotment. The allegations of inordinate delay, negligence, harassment on the part of appellant, in a complaint filed by a re-allottee, within one year of re-allotment, appears to be hollow and without merit. In this factual background, having regard to the principles laid down in *Ghaziabad Development Authority vs. Balbir Singh*¹, *Haryana Urban Development Authority vs. Darsh Kumar*² and *Bangalore Development Authority vs. Syndicate Bank*³, the award of interest was not warranted. A re-allottee in 1998 cannot obviously be awarded interest from 1992 on the amounts paid by the original allottee in 1990 on the ground that the original allottee was not offered delivery in 1990.

7. We therefore allow this appeal and set aside the orders of the consumer fora below. The complaint is rejected.

¹[2004 (5) SCC 65]

²[2005 (9) SCC 449]

³[2007 (6) SCC 711]