

SUPREME COURT OF INDIA

Punjab Urban Planning & Development Authority

Vs.

Kanwaljit Singh Ahluwalia

C.A.No.4639 of 2010

(Abhay Manohar Sapre and Mohan M.Shantanagoudar,JJ.,)

25.09.2018

JUDGMENT

Abhay Manohar Sapre,J.,

1. This appeal is directed against the final judgment and order dated 05.01.2009 passed by the National Consumer Disputes Redressal Commission, New Delhi in Revision Petition No. 3268 of 2008 whereby the National Consumer Commission dismissed the Revision Petition.
2. Facts of the case and the issue involved in the appeal lie in a narrow compass as would be clear from the narration of the facts stated infra.
3. The Punjab Urban Planning and Development Authority (for short called “Authority”)-appellant No.1 is the statutory authority created under the Act for the State of Punjab.
4. The respondents purchased one plot on 12.08.1998 bearing No. 795 Phase -I Urban Estate Patiala from the appellant-Authority pursuant to one scheme for the construction of their residential house. The respondents, after purchase, ensured compliance of all necessary formalities and started construction work on the plot. The construction work had to be stopped by the respondents at the instance of the appellant half way.
5. It is the case of the respondents that but for no fault of theirs, the construction remained incomplete for more than one year and despite repeated requests made by the respondents to allow them to start and complete the construction work, the appellant did nothing.
6. This gave rise to filing of the complaint by the respondents against the appellant-Authority under the Consumer Protection Act before the District Forum seeking monetary compensation as follows:-

- | | | | |
|--------------------------------|--------------|-------------------------|--------------|
| 1. Due to escalation | Rs. 50,000/- | 2. Due to material loss | Rs. 17,000/- |
| 3. Charges paid to architect | Rs. 2,500/- | | |
| 4. Interest accrued on housing | Rs. 28,976/- | loan | |

5. Compensation for mental Rs. 25,000/- pain and agony Rs. 1,13,476/-

7. The respondents inter alia complained that it was a clear case of deficiency in service on the part of the Authority as a result of which the respondents had to suffer losses, but for no fault of theirs and, therefore, they are entitled to claim the aforementioned monetary claim under specified heads from the Authority (appellant No.1 herein). The appellant-Authority contested the complaint.

8. By order dated 12.06.2001, the District forum allowed the respondents' complaint by recording the following finding against the appellants and awarded a sum of Rs.1,13,476/- to the respondents under various heads mentioned above:

“ The whole procedure and exercise of rejection of the previously sanctioned site plan (29.11.97) and subsequently again reverting to the same (29.11.97) and subsequently passing of the second site plan on 29.12.98 was nothing but only to harass the consumer. It is the responsibility of the respondent to pay the loss which were suffered by the complainant. The respondents themselves admitted that the delay was cause due to their inefficient and improper decisions. It is because of this reason, they are ready to waive of non-construction fee for 1999. It is thus clear proof of deficiency in service on the part of Respondent.”

9. The appellant felt aggrieved and filed appeal before the State forum. The appeal was dismissed and, therefore, they filed revision before the National forum. By impugned order, the National forum also dismissed the revision and confirmed the orders passed by the District and State forum which gives rise to filing of this appeal by way of special leave in this Court.

10. Heard Mrs. Rachana Joshi Issar, learned counsel for the appellants and Mr. Lav Kumar Agrawal, learned counsel for the respondents

11. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in the appeal.

12. In our considered view, the concurrent findings of three forums, namely, District forum, State Appellate forum and lastly, the National revisionary forum do not call for any interference. These findings are binding on this Court. It is more so because we have not noticed any kind of perversity or illegality or arbitrariness in these findings.

13. All the three forums categorically, on facts, held that the respondents were never at fault at any stage after purchasing the plot from the appellant- Authority but it was the Authority, who was at fault due to which the respondents caused loss, inconvenience and mental harassment while completing construction of their residential house on the plot which remained incomplete for more than one year.

14. It was found that there was absolutely no justification on the part of the Authority to create obstacles once they cleared every thing to enable the respondents to go ahead with the work of construction. Indeed, as per the finding, the Authority too admitted undue delay on their part in permitting the respondents to complete the work. The respondents were compelled to stop the work half way for a long time due to which their time, money and material were lost and they were deprived of living in their house. The finding quoted above, which was rightly upheld by the Appellate and revisionary forum, justifies their conclusion.

15. Learned counsel for the appellant-Authority, however, argued with vehemence that the respondents' complaint itself was misconceived and that in any event, it was incapable of being entertained and eventually being allowed on facts and in law but we were not impressed by her submissions.

16. Once the three forums, on facts, held against the appellant-Authority (a finding quoted above), then we are not inclined to go into any issue which, even otherwise, does not arise for consideration.

17. In the light of the foregoing discussion, we find no merit in the appeal, which fails and is accordingly dismissed with costs quantified at Rs.10,000/- payable by the appellant-Authority to the respondents.