

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7030 OF 2002

GHAZIABAD DEVELOPMENT AUTHORITY

.....APPELLANT(S)

Versus

SUBHASH CHANDRA SOOD

.....RESPONDENT(S)

O R D E R

Ghaziabad Development Authority, the appellant herein ('the Authority', for short) floated a housing scheme in Govindpuram. In the year 1989, the respondent applied for a 200 sq. mt. plot. The Authority issued a reservation letter. There were some delay in payment of some instalments. According to the respondent, all instalments have been paid with interest.

2. The respondent filed a complaint before the District Forum in the year 1993 seeking (i) delivery of the plot, (ii) award of interest at 18% per annum on the deposited amount, and (iii) compensation for the delay. The Authority resisted the petition contending that in view of a stay order issued by the High Court in writ petitions filed by the land owners, the Authority could not deliver the plot. The District Forum, by order dated 31.7.1997, directed delivery of possession of plot within three months and also awarded interest at 18% per annum on the amount



deposited. The appeal filed by the Authority was dismissed by the State Commission on 10.3.2000. The revision filed by the appellant was dismissed by a non-speaking order dated 14.3.2002 which is impugned in this appeal. The order merely states that in view of the decision in *Haryana Urban Development Authority Vs. Darsh Kumar* (Revision Petition No. 1197 of 1998), where the Commission had upheld the interest at 18% per annum, the revision petition was being dismissed. The various contentions urged by the appellant were not considered. In particular, the contention that the plot could not be delivered for reasons beyond its control and that there was no deficiency in service and the further contention that where delivery of plot is directed, payment of interest at 18% per annum was not warranted. As the order is a non-speaking order which does not deal with the issues raised, in the normal course, we would have set aside the order and remitted the matter to the National Commission.

3. But at this stage, the learned counsel for the respondent, however, stated that that would involve further delay and the respondent who has been waiting for the plot ever since 1989, should not be denied the benefit of the plot any further. He requested that the matter may be heard

and disposed of finally by this Court. In the special
.....3.



circumstances, we propose to consider the matter on merits.

4. However, at this stage, learned counsel for the Authority submitted that an alternative Plot No.E-3 in Swarn Jayanti Puram Scheme is allotted to the respondent on 21.6.2000, but respondent did not respond. She also submitted that on the peculiar facts and circumstances of this case, the plot will even now be offered to the respondent. She stated that instead of charging the present allotment rate of Rs.7800/- per sq. mt. the Authority will make the allotment at Rs.2300/- per sq.mt. which was the rate prevailing in 2000-2001 when the said Scheme was launched. We are of the view that the offer made is fair and reasonable in the circumstances. The delay in offering the possession of the plot earlier in 1989 was for reasons beyond the control of the Authority in view of the stay order which was operating against the Authority. The plot that is now allotted is in a new layout. The Authority has to charge only the initial allotment rate of that new layout.

5. In the circumstances, we allow this appeal, set aside the order of the National Commission and modify the order of the State Commission by directing the appellant

.....4.

Authority to allot the plot No.E-3, measuring 200 sq. mts., in the Swarn Jayanti Puram Scheme at the rate of Rs.2300/- per sq. mts. and deliver the same within three months against payment of balance amount due. The respondent will be entitled to adjustment of the amounts already paid by him with interest at the rate of 9% per annum thereon towards the price of the plot. It is needless to say that in the circumstances the question of Authority paying interest on the price deposited at the rate of 18% per annum does not arise.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
November 19, 2009.

.....J.
(K.S. RADHAKRISHNAN)

JUDGMENT

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8516 OF 2002

GHAZIABAD DEVELOPMENT AUTHORITY

.....APPELLANT(S)

Versus

MEERA SANGER

.....RESPONDENT(S)

O R D E R

Ghaziabad Development Authority, the appellant herein ('the Authority', for short) launched a housing scheme at Sanjay Nagar. On the application of the respondent, the Authority issued a reservation letter on 30.6.1992. Allotment letter was issued on 5.11.1993 showing the final cost of the plot as Rs.1,08,339/-. The respondent did not pay the lumpsum amount payable before delivery of possession and as on 24.4.1996, the total amount due was Rs.33,716/- towards the plot, Rs.13,000/- towards chowkidar charges and Rs.18,713/- towards interest. As the payment was not made, the plot could not be delivered.

2. However, the respondent filed a complaint before the District Forum in the year 1998 and the District Forum directed the appellant to deliver possession of the plot within two months and to pay interest at 18% per annum on the amount deposited from 1.1.1993 till the date of



possession, and also pay Rs.2,000/- as compensation with a further direction, on failure to comply, the Authority should pay interest at 21% per annum. The District Forum also stated that if any amount was due by the allottee, the Authority can adjust the same from the interest payable to the allottee. Even though, the appellant was aggrieved by the said order, in compliance of the said order it executed the sale deed in favour of the allottee on 29.5.1999 with a condition that the balance amount should be paid by the allottee. The possession of the flat was delivered on 16.7.1999.

3. The appeal filed by the appellant was disposed of by the State Commission by merely reducing the default interest rate from 21% to 18% per annum by order dated 5.3.2001. The revision filed by the appellant was disposed of by National Commission by a non-speaking order dated 24.3.2002 disposing of the petition in the light of its decision in *Darsh Kumar* upholding the interest rate at 18% per annum. Various contentions urged by the appellant were not considered by the National Commission.

4. In this case, the non delivery was on account of non payment of the amount to be deposited before delivery of



possession. It is not in dispute that the possession of the flat has now been delivered and sale deed also been executed, even when dues had not been paid.

5. In the circumstances, we are of the view that the respondent was not entitled to any interest or damages. [See *Bangalore Development Authority Vs. Syndicate Bank*, (2007) 6 SCC 711 and *HUDA Vs. Raja Ram*, (2009) 2 SCALE 164].

6. Accordingly, we allow this appeal in part and set aside the order of the District Forum, as affirmed by the State Commission and the National Commission and delete the award of interest and award of compensation of Rs.2,000/-. If any amount is still outstanding from the respondent, it is open to the Authority to take such action as is available to them in accordance with law for recovery of the same.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
November 19, 2009.

.....J.
(K.S. RADHAKRISHNAN)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6050 OF 2002

GHAZIABAD DEVELOPMENT AUTHORITY

.....APPELLANT(S)

Versus

K.K. SHARMA

.....RESPONDENT(S)

O R D E R

Ghaziabad Development Authority, the appellant herein ('the Authority', for short) floated a housing scheme in Govindpuram named 'Akansha II'. The Authority issued a reservation letter on 26.2.1989 to the respondent. The respondent deposited Rs.21,510/- as registration amount. On 29.12.1993, respondent demanded refund on the ground that the house allotted was not worth living. The Authority refunded the registration amount deposited by the respondent on 20.5.1994 after deducting Rs.5,000/- towards cancellation charges. It did not pay any interest. On a complaint filed by the respondent, the District Forum, by order dated 9.9.1997, directed refund of the deducted amount of Rs.5,000/- and also directed payment of interest on the deposited amount at 18% per annum from the date of deposit till 20.5.1994 alongwith Rs.2,000/- as costs. The appellant filed an appeal before the State Commission in October 1997. However, as there was no stay, in compliance of the District Forum order, the Authority deposited a sum



of Rs.5,000/- as also Rs.79,499/- towards interest. Thereafter, the State Commission affirmed the order upholding the interest at 18% per annum. Revision filed by the appellant has been dismissed by a non-speaking order following its earlier decision in *Darsh Kumar*.

2. The order of the National Commission in *Darsh Kumar* has been modified by this Court in *HUDA Vs. Darsh Kumar*, (2005) 9 SCC 449. In several other decisions, this court has reduced the interest payable to 9% to 10% per annum. On the facts and circumstances, we are of the view that award of interest at 18% was not warranted and interest at 10% per annum would be just and reasonable.

3. We, accordingly, allow this appeal in part and reduce the interest from 18% to 10% per annum. In all other respects, the order of the District Forum is affirmed. Consequently, the Authority shall be entitled to recover back the excess interest paid to the respondent.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
November 19, 2009.

.....J.
(K.S. RADHAKRISHNAN)

SUPREME COURT OF INDIA



JUDGMENT