

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 263 OF 2007

UNION OF INDIA AND ANR.

... APPELLANT(S)

:VERSUS:

G. SAREEN

... RESPONDENT(S)

ORDER

1. The Rehabilitation Housing Corporation Ltd., the predecessor in interest of the appellants, allotted a plot of land to respondent's father on 24.4.1955. As the said plot was subsequently allotted to someone else, the respondent's father was allotted another plot bearing No.E/51-52, Kirti Nagar, New Delhi, in terms of the agreement dated 22.10.1955. On the request of the respondent's father the said plot was transferred in the name of the respondent on 27.7.1956. The major part of the price had been paid by the respondent's father in 1955-56 and a small balance was paid by 30th April, 1968. However, as the said plot was in the possession of the encroachers, possession thereof could not be delivered to the respondent.

2. The respondent therefore requested the appellants to remove the encroachers and deliver possession of the plot to him. The appellants made some half-hearted attempts by filing a suit which was dismissed for non-prosecution, and

subsequently the appeal filed by appellants was also dismissed for non-prosecution. Ultimately, at the request of the respondent, proceedings were initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and after protracted litigation, possession of the plot was secured from the encroachers in July, 2001.

3. But instead of delivering possession to the respondent, the appellants requested the respondent to produce a refugee registration certificate. The respondent pointed out that he and his father were non-displaced persons and the question of production of a refugee registration certificate did not arise. But the appellants refused to deliver possession without such a certificate. Feeling aggrieved, the respondent filed C.W.P. No. 2578/2003 seeking transfer of ownership by means of a deed of conveyance. The said petition was allowed with a direction to the appellants to convey the said plot and transfer its ownership to the respondent without delay.

4. The order of the learned Single Judge was challenged by the appellants in an intra-Court appeal. The Division Bench found that the requirement relating to production of a refugee registration certificate was not warranted and the respondent was entitled to the relief granted by the learned Single Judge. The Division Bench of the High Court, therefore, dismissed the appeal with costs of Rs. 25,000/-. The said order of Division Bench is under challenge in this appeal.

5. The respondent in whose favour the allotment was transferred in 1956, has been running from pillar to post requesting the appellants and its predecessor for delivery of possession of the plot. Non-delivery and delay were solely attributable to the appellants. In the earlier stages, the plot could not be delivered on account of the

encroachment. But once the encroachment was removed, there was no reason as to why it could not be delivered and conveyed to the respondent. The fact that the prices of land had gone up between 1985 to 2005 is no ground to deny the plot to the respondent.

6. A attempt was made to contend that the relief sought was for specific performance of an agreement for sale and respondent ought to have approached the civil court. We are surprised at such a contention being put forth by the Union of India. The allotment is admitted. The delay is admitted. The fact that respondent was not responsible for the delay is admitted. There is no justifiable reason to deny relief to respondent. We fail to see the need to drive the respondent to a civil court.

7. We, therefore, find no reason to interfere with the impugned order passed by the High court. The appeal is dismissed. However, the direction for payment of costs of Rs. 25,000/- is deleted.

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

.....J
(HARJIT SINGH BEDI)

NEW DELHI,
APRIL 21, 2009.

