

PETITIONER:
DELHI DEVELOPMENT AUTHORITY

Vs.

RESPONDENT:
MR. RAVINDRA MOHAN AGGARWAL & ANR. ..

DATE OF JUDGMENT: 19/03/1999

BENCH:
Sujata V.Manohar, R C Lahoti

JUDGMENT:

R.C. Lahoti, J.

A plot bearing number 13 of site no.58 on Kalkaji Road, Delhi admeasuring 162 sq.mtrs. with two sides open was put to auction on 5.2.1985 holding it out to be a developed plot by Delhi Development Authority. The respondents made a bid of Rs.3,25,000/- which was the highest. The officer conducting the sale knocked down the bid in favour of the respondents. With the fall of hammer, the respondents deposited an amount of Rs.81,250/- being 25 per cent of the bid amount.

The authority competent to accept or not the bid was the Vice-Chairman of the DDA before whom the papers were placed. It appears that a public interest litigation was filed by a third party laying challenge to the auction complaining that the plot was situated in green-belt and therefore could neither have been treated as a developed plot nor put to auction for any purpose other than use as a green-belt. The High Court had issued an ad-interim writ staying the auction. The interim order though passed earlier was brought to the knowledge of the Vice-Chairman, DDA after the authority had signed its approval of the bid on the file. The authority then stayed its hands in view of the High Court's order.

The respondents filed a writ petition before the High Court of Delhi seeking a direction to the DDA to conclude the auction sale proceedings and handover possession of the plot to the respondents. The High Court found that the plot being situated in the green-belt, could not have been put to auction at all. The High Court by its order dated 1.8.1991 refused to grant any relief to the respondents so far as plot number 13 is concerned. However, it held that the respondents could not be faulted for having made a bid at the auction and inasmuch as an expectation has been built up in their favour of having a plot in face of acute shortage of land in Delhi, the DDA was directed to give a plot to the respondents of equivalent measurement at the same price in the same area adjoining the area in question, i.e., Kalkaji within a period of two months from the date of the order.

Aggrieved by the abovesaid direction of the High Court, the DDA has filed this petition for special leave to

appeal before this Court. Leave granted. The facts relevant and material for the disposal of this appeal are :- (i) that the plot on the date of the auction was situated within the green-belt and hence could not have been put to auction by the DDA; (ii) that the sale was not finalised inasmuch as the same was stayed by the High Court in a public interest litigation; (iii) that the authority competent to accept the bid recorded its acceptance at a point of time when the High Court had already stayed the same though the order of the High court was not till that point of time brought to the notice of the authority; (iv) that the acceptance of the bid was never communicated by the DDA to the respondents; (v) that the tendered amount was 25 per cent only of the bid amount. The balance 75 per cent was yet to be paid by the respondents to the petitioner; and (vi) that it was only in the year 1994 that the zonal plan was modified to alter the use of the plot to residential purpose.

It is submitted by the learned counsel for the appellant that the auction never achieved a finality. No right much less a vested right had accrued in favour of the respondents. The High Court was therefore not justified in directing an alternate plot to be given to the respondents. On the other hand, it is submitted by the learned counsel for the respondents that a bid having been finalised and also accepted by the competent authority, a right had accrued in favour of the respondents. In the year 1994 the disability attached with the plot has ceased to exist and therefore on the doctrine of feeding the grant by estoppel enunciated in Section 43 of the Transfer of Property Act, the DDA should be compelled to finalise the sale and deliver possession over the plot to the respondents. Alternatively, the DDA must compensate the respondents by allotting an alternate plot as directed by the High Court and they should not be made to suffer for no fault of theirs. The learned counsel for the respondents insisted that both in law and equity the respondents are entitled to some relief.

Having heard the learned counsel for the parties, we are of the opinion that there is merit in the appeal and the same deserves to be allowed. On the date of the auction the plot being in the green-belt, could not and should not have been put to auction. There is no estoppel against statute and when the considerations of public interest are involved. The acceptance of the bid recorded by the Vice-Chairman, DDA on the file was bad for two reasons. Firstly, it was so recorded after the passing of the interim order of stay by the High Court though it was in the process of being communicated. Secondly, the acceptance was not communicated by the DDA to the respondents and therefore the acceptance was not complete. Merely because the respondents gathered knowledge of the acceptance having been recorded on the file would not make any difference. Reliance on Section 43 of the Transfer of Property Act is entirely misconceived inasmuch as there was no transfer or grant ever made by the DDA in favour of the respondents. Acceptance of bid at a public auction and deposit of 25% of bid amount do not constitute a transfer of property. The respondents have no basis in law to support their claim. Even the equitable considerations would not justify a public authority like DDA being directed today to provide an alternate plot to the respondents in the same locality and at the same price after a lapse of 14 years from the date of the auction.

We may place on record that according to the appellant, the auction having been stayed by the High Court, the amount of Rs.81,250/- was sent by cheque to respondents, but they did not accept the same. The amount has remained with the DDA for all these 14 years.

The appeal is allowed, the impugned order of the High Court directing the DDA to allot an alternate plot to the respondents is set aside. The writ petition filed by the respondents is directed to be dismissed. However, in the facts and circumstances of this case the amount of Rs.81,250/- which has remained with the DDA is directed to be returned to the respondents with interest calculated at the rate of 9 per cent per annum from 5.2.1985 till the date of return. No order as to the costs.

JUDIS