

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-I,**U.T. CHANDIGARH**

Consumer Complaint No.	:	CC/836/2021
Date of Institution	:	02/12/2021
Date of Decision	:	18/06/2024

Raj Kumar Malik S/o Late Sh.Chattar Singh Malik, GPA Holder/Will Holder for Allottees (Sh.Harjeet Singh S/o Sh.Harbans Singh, Sh.Mandeep Singh S/o Sh.Hardeep Singh, Sh.Kuldeep Singh S/o Sh.Harbans Singh & Sh.Kultar Singh S/o Sh.Kuldeep Singh), R/o H.No.502, Sector 20-A, Chandigarh.

... Complainant

V E R S U S

1. Haryana Urban Development Authority, Sector 6, Panchkula through its Chief Administrator.
2. Haryana Urban Development Authority, Karnal, through its Estate Officer.

... Opposite Parties

CORAM : **PAWANJIT SINGH** **PRESIDENT**
 SURESH KUMAR SARDANA **MEMBER**

ARGUED BY : Sh.Sanjiv Gupta, Advocate for Complainant.
 : Sh.Sikander Bakshi, Advocate for OPs (through VC).

Per Suresh Kumar Sardana, Member

1. Averments are that the namely Sh.Harjeet Singh S/o Sh.Harbans Singh, Sh.Mandeep Singh S/o Sh.Hardeep Singh, Sh.Kuldeep Singh S/o Sh.Harbans Singh & Sh.Kultar Singh S/o Sh.Kuldeep Singh, were allotted the double story shop site No.206, Sector 12, Urban Estate, Karnal measuring 75.625 sq. mts., in open auction for an amount of Rs.8,26,000/- vide allotment letter dated 15.01.1993 issued by OP No.2 (Annexure C-1). The allottees had duly and admittedly deposited 25% of the said allotment price i.e., Rs.2,06,500/- within the stipulated period of 30 days, but the remaining 75% amount could not be deposited on account of financial constraints due to prolonged illness of allottee No.3-Kuldeep Singh, who later died on 30.10.2009. Later, allottee No.1-Harjeet Singh was also not keeping well for long period of time and thereby he had even expired on 21.03.2015, which also resulted into the financial constraints on part of allottees. Further, allottee No.4 Kultar Singh was also not keeping well for long period of time and thereby he had even expired on 23.04.2021. As narrated above, because of prolonged illness of two allottees and thereby financial constraints, the remaining 75% of the auction amount i.e., amounting to Rs.6,19,500/- could not be deposited. However, as per the guidelines, the remaining 75% amount could have been deposited in half yearly installments alongwith interest @ 15% p.a. As such, the allottees are ready to deposit the said remaining amount along with delayed

period interest, as calculated by the OPs. The OP No.2 vide its office order dated 14.12.1998 had ordered for resumption of subject site, by forfeiting 10% of the consideration amount (Annexure C-2). The allottees had executed the GPA as well as the afore named deceased allottees namely Sh.Kuldeep Singh, Sh.Harjeet Singh & Sh.Kultar Singh executed the respective Wills, dated 23.08.2003 favouring the complainant (Annexure C-3). The complainant relied upon various similar situated cases, where the OP had condoned the delay caused in making deposit by way of delayed period interest (Annexure C-5). But OPs have failed to take consideration of grounds raised in the representation, but has just passed three lines non-speaking order, in a stereo typed manner. The OPs have failed to give any justification in passing the order dated 20.09.2021, which amounts to deficiency in service and unfair trade practice. The OPs have failed to comment up or differ with the citations situated cases referred to in the representation. Thereby well-reasoned representation dated 14.07.2021 has not been considered and accepted by OP's. The complainant has made sincere and earnest efforts to set aside the resumption order, but the OP's have failed to do the needful & thereby the action of the OPs tantamount to unfair trade practice. Hence, is the present consumer complaint.,

2. OPs contested the consumer complaint, filed their written reply and stated that the allottees never followed the terms and conditions of the allotment letter and never came forward to deposit the amount of installment and has defaulted the payment schedule as given in the allotment letter. The payment of installments on the due date is mandatory. The Estate Officer, HSVP, Karnal vide order dated 14.12.1998 resumed the DSS No.206, Sector 12, Karnal as the allottees has only deposited 25% cost of the shop and after which no amount was deposited by the allottees. The penalty was imposed after issuing notices under Section 17(1)(2) of the HUDA Act, 1977. Thereafter notice under Section 17(3) was served but no response was received from the allottees. Thereafter notice under Section 17(4) was issued on 17.04.1998, 07.07.1998 and 19.09.1998 giving an opportunity of personal appearance to explain the cause. But the allottees neither appeared nor deposited the outstanding amount of the site (Annexure R-2). The resumption order has attained finality as the same has not been set aside till date. The complainant is alleged to be the GPA of the resumed site and filed the present time barred complaint which is liable to be dismissed. On these lines, the case is sought to be defended by the OPs.
3. No rejoinder was filed by the complainants.
4. Parties led evidence by way of affidavits and documents.
5. We have heard the learned counsels for the parties and gone through the record of the case.
6. The main grievance of the complainant (GPA Holder/Will Holder) is that being the highest bidder in the open auction of shop of OPs, his representation against the cancellation of the allotment letter was not decided in his favour and moreover, the OPs has failed to give any justification in passing the order dated 20.09.2021 which amounts to deficiency in service and unfair trade practice.
7. It is an admitted fact that the said shop was put to auction by the OPs and was required to be allotted to the highest bidder. The OPs have taken a stand that auction purchaser is not a consumer. In support of their argument, learned counsel for the OPs has relied upon the judgment of the Hon'ble Apex Court in the case titled *U.T. Chandigarh Administration & Anr. Vs. Amarjeet Singh & Ors., (2009) 4 SCC 660*, and the relevant portion of the same is reproduced below for ready reference :-

“Where there is a public auction without assuring any specific or particular amenities, and the prospective purchaser/lessee participates in the auction after having an opportunity of examining the site, the bid in the auction is made keeping in view the existing situation, position and condition of the site. If all amenities are available, he would offer a higher amount. If there are no amenities, or if the site suffers from any disadvantages, he would offer a lesser amount, or may not participate in the auction. Once with open eyes, a person participates in an auction, he cannot thereafter be heard to say that he would not pay the balance of the price/premium or the stipulated interest on the delayed payment, or the ground rent, on the ground that the site suffers from certain disadvantages or on the ground that amenities are not provided.

With reference to a public auction of existing sites (as contrasted from sites to be 'formed'), the purchaser/lessee is not a consumer, the owner is not a 'trader' or 'service provider' and the grievance does not relate to any matter in regard which a complaint can be filed. Therefore, any grievance by the purchaser/lessee will not give rise to a complaint or consumer dispute and the fora under the Act will not have

jurisdiction to entertain or decide any complaint by the auction purchaser/lessee against the owner holding the auction of sites.”

8. In view of the aforesaid discussion and the reasons recorded hereinbefore, auction purchaser is not a consumer. Hence, we do not find any deficiency in service or unfair trade practice on the part of the OPs. Accordingly, the consumer complaint, being meritless, is hereby dismissed, leaving the parties to bear their own costs. However, the complainant shall be at liberty to agitate the issue mentioned above before a Court of competent jurisdiction/appropriate Forum.
9. Pending miscellaneous application, if any, also stands disposed of.
10. Certified copies of this order be sent to the parties free of charge. The file be consigned.

18/06/2024

Ls

Sd/-
[Pawanjit Singh]
President

Sd/-
[Suresh Kumar Sardana]
Member