

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 1112 OF 2020**

(Against the Order dated 12/02/2020 in Appeal No. 111/2020 of the State Commission  
Rajasthan)

1. M/S. ANANT RAJ LIMITED .....Petitioner(s)

Versus

1. HAPPY YADAV .....Respondent(s)

**BEFORE:**

**HON'BLE AVM J. RAJENDRA, AVSM VSM (Retd.),PRESIDING  
MEMBER**

FOR THE PETITIONER :           FOR PETITIONER : MR. VASHISHTHA PARASHAR,  
ADVOCATE

FOR THE RESPONDENT :       FOR RESPONDENT : MR. L.N. RAO & MR. S.R. MALIK,  
ADVOCATES

**Dated : 09 May 2024**

**ORDER**

1. This Revision Petition No.1112 of 2020 challenges the impugned order of Rajasthan State Consumer Disputes Redressal Commission, Jaipur ('the State Commission') dated 12.02.2020. Vide this order, the State Commission dismissed the First Appeal No. 111/2020 and affirmed the order of the District Consumer Disputes Redressal Forum, Alwar ('the District Forum') dated 10.12.2019.

2. Brief facts of the case, as per the Complainant, are that the Petitioner/OP launched a residential scheme in the year 2012 namely ASHREY at Neemrana Alwar, Rajasthan. The Complainant submitted his application with the Petitioner/OP for booking Flat No. E-328 for a total sale consideration of Rs.8,89,769/- and deposited Rs.81,500/- on 09.02.2012. Thereafter, on 19.04.2012 he deposited Rs.85,697/-, on 31.07.2012 a sum of Rs.50,000/-, Rs.50,000/-, Rs.50,000/-, on 28.08.2012, a sum of Rs.18,038, on 06.12.2012, a sum of Rs.50,000/-, Rs.50,000/-, on 14.12.2012, a sum of Rs.8,616/- and on 20.05.2014, a sum of Rs.1,68,037/- were deposited. Thus, he paid a total of Rs.6,11,888/-. The Petitioner/OP was to deliver possession of the flat within three years from the date of booking. However, the OP failed to do so. Being aggrieved, he filed a Complaint before the District Forum for refund along with interest and compensation.

3. In reply, OP has contended that the Complainant had booked the flat in the year 2012 and the construction progressed as per time fixed. Rather, the complainant had not paid the balance amount. On 13.06.2016, he forwarded an application to OP for allotment of another flat in Block C-316/235 in place of the aforesaid flat. But, he did not deposit the original documents and by concealing these facts, he filed the present complaint. There is no deficiency in service that has been committed by the OP towards the complainant.

4. The learned District Forum vide order dated 10.12.2019 allowed the complaint and directed the Petitioner/Opposite Party as under:

***“Therefore, the present complaint filed by the complainant Happy Yadav under Section 12 of the Consumer Protection Act, 1986 is accepted and the respondents are directed to refund the amount of Rs.6,11,888/- (Rupees Six Lakhs Eleven Thousand Eight Hundred Eighty-Eight only) as deposited by the complainant against the aforesaid house.***

***Respondents are directed to pay to the complainant the interest at the rate of 9 per cent per annum on the aforesaid amount of Rs.4,43,851/- from 14.12.2012 and on the balance amount of Rs.1,68,037/- from 20.05.2014, till the date of realization.***

***Respondents are further directed to pay compensation of Rs.50,000/- towards physical and mental agony to the complainant and Rs.5,000/- as costs of the complainant, thereby total sum of Rs.55,000/- (Rupees Fifty-Five Thousand only) to the complainant. The order be complied with within a period of one month.”***

***(Extracted from translated copy)***

5. Being aggrieved by the impugned order, the Petitioner/OP filed an Appeal before the State Commission. The learned State Commission, vide order dated 12.02.2020 dismissed the same and affirmed the order of the District Forum with following observation:

***“Heard the counsel for the appellant and perused the impugned judgment.***

***There is no dispute about the fact that flat was booked in 2012 but within three years possession of the flat has not been handed over to the respondent. As per contention of the appellant himself completion certificate was obtained in February 2017 and even the occupation certificate was received in February 2018. Hence, the Forum below has rightly held that appellants are guilty of delay and rightly ordered for refund of the money alongwith interest and compensation.***

***This is unfortunate state of affairs that counsel for the appellant has submitted the judgment passed by the District Consumer Forum, Rewari before the State Commission where the judgment passed by another District Consumer Forum has no relevance.***

***In view of the above, there is no merit in this appeal and stands dismissed.”***

6. In his arguments, the learned Counsel for Petitioners reiterated the grounds in the Revision Petition and asserted that the Respondent refused to take possession of the unit only on account of the lowered market sentiments in the real sector and the value of residential units has depreciated recently and the Respondent perceives a fall in the resale value of the apartment. He further asserted that the delay on the part of the Respondent in taking possession shall attract holding charges @ Rs.10 per sq. ft. per month of the build-up area of the allotted unit and therefore, he moved application for alternate allotment of unit as the Respondent never intended to reside in the unit which was nearing on completion. Therefore, he sought the impugned orders of the lower fora be set aside. He has relied upon the following judgments:

***(i) Ankur Sharma and Ors. Vs. Adani M2K Projects LLP, MANU/CF/0175/2022;***

***(ii) Vineet Kumar and Anr. Vs.DLF Universal Limited and Anr. Along with connected matters, 2019 SCC OnLine NCDRC 9.***

7. On the other hand, the learned Counsel for the Respondent/ Complainant submitted that the Petitioner/OP failed to deliver possession of the said flat on the agreed date under the Buyer's Agreement despite receiving 80% payment. He argued in favour of the concurrent findings of the fora below and sought to dismiss the Revision Petition with costs. He relied on the following judgments:

***(i) Lucknow Development Authority Vs M.K. Gupta, 1994 SCC (1) 243;***

***(ii) Satish Kumar Pandey & Ors. Vs. Unitech Ltd., C.C. No.427 of 2014 decided by NCDRC;***

***(iii) Puneet Malhotra Vs. Parasvnath Developers Ltd., C.C. No.232 of 2014 decided by NCDRC.***

8. I have examined the pleadings and associated documents placed on record, including the reasoned orders of the District Forum and the State Commission and rendered thoughtful consideration to the arguments advanced by the learned Counsels for the Parties.

9. Clearly, the Respondent/Complainant has booked the flat with the Petitioner/OP and paid the 80% of the consideration amount. The unit was to be handed over within three years from the year 2012. As per contention of the Petitioner, the completion certificate was

obtained in February 2017 and even the occupation certificate was received in February 2018. Therefore, the Respondent/Complainant has right to refund the deposited amount which is rightly held by the Fora below.

10. It is a well settled position in law that revision under Section 58(1)(b) of the Act, 2019, (*which are pari materia to Section 21(b) the Act, 1986*) confers very limited jurisdiction on this Commission. In the present case there are concurrent findings of the facts and scope for revisional jurisdiction of this Commission is limited. On due consideration of the facts of the case, I do not find any illegality, material irregularity or jurisdictional error in the impugned Orders passed by the State Commission warranting interference in revisional jurisdiction under Section 21(b) of the Act, 1986. I rely upon the decision of Hon'ble Supreme Court in the case of '**Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd., (2011) 11 SCC 269.**

11. The Hon'ble Supreme Court in a recent judgement in '**Sunil Kumar Maity Vs. State Bank of India & Anr. Civil Appeal No. 432 of 2022** dated 21.01.2022, has held that the revisional Jurisdiction of this Commission is extremely limited: -

*"9. It is needless to say that the revisional jurisdiction of the National Commission under Section 21(b) of the said Act is extremely limited. It should be exercised only in case as contemplated within the parameters specified in the said provision, namely when it appears to the National Commission that the State Commission had exercised a jurisdiction not vested in it by law, or had failed to exercise jurisdiction so vested, or had acted in the exercise of its jurisdiction illegally or with material irregularity. In the instant case, the National Commission itself had exceeded its revisional jurisdiction by calling for the report from the respondent-bank and solely relying upon such report, had come to the conclusion that the two fora below had erred in not undertaking the requisite in-depth appraisal of the case that was required. ...."*

12. Similarly, the Hon'ble Supreme Court in '**Rajiv Shukla Vs. Gold Rush Sales and Services Ltd. (2022) 9 SCC 31**, it was held that:-

*As per Section 21(b) the National Commission shall have jurisdiction to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Thus, the powers of the National Commission are very limited. Only in a case where it is found that the State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise the jurisdiction so vested illegally or with material irregularity, the National Commission would be justified in exercising the revisional jurisdiction. In exercising of revisional jurisdiction the National Commission has no jurisdiction to interfere with the*

*concurrent findings recorded by the District Forum and the State Commission which are on appreciation of evidence on record.*

13. In view of the foregoing deliberations, the Petitioner has not brought out anything substantial that warrants any interference with the detailed and reasoned orders passed by the learned District Forum dated 10.12.2019 and learned State Commission dated 12.02.2020 in the case.

14. At the same time, as regards liability of the parties and tenability of multiple reliefs while making such refunds, the Hon'ble Supreme Court in ***Experion Developers Pvt. Ltd. Vs. Sushma Ashok Shiroor, in Civil Appeal No.6044 of 2019*** decided on 07.04.2022 has held:-

*“We are of the opinion that for the interest payable on the amount deposited to be restitutionary and also compensatory, interest has to be paid from the date of the deposit of the amounts. The Commission in the Order impugned has granted interest from the date of last deposit. We find that this does not amount to restitution. Following the decision in DLF Homes Panchkula Pvt. Ltd. Vs. DS Dhanda and in modification of the direction issued by the Commission, we direct that the interest on the refund shall be payable from the dates of deposit. Therefore, the Appeal filed by purchaser deserves to be partly allowed. The interest shall be payable from the dates of such deposits.*

*At the same time, we are of the opinion that the interest of 9% granted by the Commission is fair and just and we find no reason to interfere in the appeal filed by the consumer for enhancement of interest.”*

15. Also the Hon'ble Supreme Court in ***DLF Homes Panchkula Pvt. Ltd. Vs. D.S. Dhanda***, in CA Nos. 4910-4941 of 2019 decided on 10.05.2019 has held that multiple compensations for singular deficiency is not justifiable. Therefore, award of Rs.50,000/- to the Complainant towards compensation for harassment and mental agony, over and above the component of interest already awarded is untenable.

16. In view of the facts and circumstances of the case, the submissions made by the learned Counsels for both the parties and the established precedents by the Hon'ble Supreme Court in the matter, the impugned Order dated 10.12.2019 in CC No.754/2016 passed by the learned District Forum, is modified with the following directions: -

### **ORDER**

- I. **The Petitioner/Opposite Party shall refund Rs.6,11,888/- to the Complainant/Respondent, along with simple interest @ 9% per annum from the respective dates of deposit till the date of payment, within a period of one month from the date of this order. In the event of delay, the amount payable shall carry simple interest @ 12% per annum from the date of expiry of one month till realization of the entire amount.**

**II. The Petitioner/Opposite Party shall pay cost of litigation quantified as Rs.20,000/- to the Complainant/ Respondent, within one month from the date of this order.**

**III. The order awarding compensation of Rs.50,000/- on account of mental agony is set aside.**

17. With the above orders, the instant Revision Petition No.1112 of 2020 stands disposed of accordingly.

18. All pending Applications, if any, also stand disposed of accordingly.

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**AVM J. RAJENDRA, AVSM VSM (Retd.)  
PRESIDING MEMBER**