

**AMITESH CHANDRA MISHRA & ANR.
V. M/S ANSAL LANDMARKS
TOWNSHIP PRIVATE LIMITED &
ANR. ,**

1. AMITESH CHANDRA MISHRA & ANR.,
S/o Shri Preme Chandra Mishra, R/o 627-D, Royal Flats, Shipra
Sun City, Indirapuram,
GHAZIABAD – 201014.

.....Complainant(s)

Versus

1. M/S ANSAL LANDMARKS TOWNSHIP PRIVATE LIMITED & ANR.,
Through its Managing Director, 210, Ansal Bhawan, 16,
Kasturba Gandhi Marg,
NEW DELHI – 110001.
2. M/S SHIKHAR BUILDTECH (P) LTD.,
Through its Proprietor, Mr. S. K. Rana,, RTG 73, Royal Tower,
Shipra Sun City, Indirapuram,
GHAZIABAD – 201014.

.....Opp.Party(s)

Case No: CONSUMER CASE NO. 205 OF 2013

Date of Judgement: 04 October 2023

Judges:

HON'BLE MR. JUSTICE A. P. SAHI, PRESIDENT

FOR THE COMPLAINANT : MR. ANKIT CHATURVEDI, ADVOCATE

**FOR THE OPP. PARTY : FOR OPPOSITE PARTY-1 : MS. NEEHA NAGPAL,
ADVOCATE**

MR. MALAK M. BHATT, ADVOCATE

MS. ADITI SHRIVASTAVA, ADVOCATE

FOR OPPOSITE PARTY-2 : MR. RITIK VERMA, ADVOCATE

Facts:

Complainants were offered a plot of land by opposite party (builder) vide letter dated 27.05.2013. Complainants deposited Rs 16,50,000 with builder as per payment plan. Possession was to be given within specified period as per application form. Builder failed to handover plot even after long period

Court's Opinions:

Non-provision of plot despite accepting payment constitutes gross negligence in service by builder. Builder's admission in written statement that land is not available and not in their possession proves deficiency in service. Complainants deserve refund of amount paid with interest due to builder's default. Prolonged litigation and mental harassment suffered by complainants entitles them to compensation of Rs 5 lakhs. Litigation expenses of Rs 1 lakh justified in view of 10 years taken for case without information by builder

Arguments by Complainant:

Booked plot from builder by paying Rs 16.5 lakhs as per demand letter and payment plan. Builder failed to handover plot within promised timeline. Seeks refund of amount paid with interest @ 9% along with Rs 5 lakhs compensation for harassment and Rs 1 lakh for litigation cost

Arguments by Opposite Party/Builder:

Land for project not available currently and not in their possession. Willing to refund amount paid or alternately provide a flat for settlement

Referred Laws and Sections:

No specific laws or sections referred

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Court

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Full Text of Judgment:

Heard learned counsel for the complainants and learned counsel for the opposite party Nos.1 & 2. The complainants were offered a plot of land for a consideration that stands indicated in the letter dated 27.05.2013. Against the said demand raised, the complainants admittedly deposited an amount of Rs.16,50,000/- with the opposite party No.1. The application form was drawn up indicating the payment plan as also the period within which the property had to be handed over. The application form is dated 02.02.2013 pursuant where to the demand was raised on 27.05.2013. The matter remained pending and a written statement was filed with no indication of either development of the project or handing over of the plot of land that was promised in the letter dated 27.05.2013. The reply of opposite party Nos.1 & 2 is read together indicates that there has been gross negligence in service inasmuch as the land was not provided for and now this has been

confirmed with the statement made in Paragraph No.11 of the written statement on behalf of opposite party No.1 that is extracted herein under:-

"11. It is submitted that at present the land for the development of the said unit is not in the possession of the Respondent No.1 and AVS College has the ownership for the land property of the Project. That the Respondent No.1 due to certain unforeseeable circumstances could not acquire the land from AVS College. Hence, the land property at present is not available for the said unit. It is humbly submitted that Respondent No.1 is willing to refund the amount of INR 16,50,000/- as deposited by the complainant till date for the said unit. Alternatively, the Respondent No.1 is also willing to offer an alternate flat to the complainant to settle the matter amicably."

A perusal of the same makes it clear that the opposite party

admittedly has not been able to acquire the land that was proposed and offered to the complainants. Consequently, the claim of the complainants for refund has to be allowed in view of this admitted position. Apart from the refund of the principal amount together with interest, the complainants have also prayed for a sum of Rs.5,00,000/- towards the agony and harassment suffered by both of them and a sum of Rs.1,00,000/- towards litigation expenses. In view of this undisputed position, the complainants deserve complete refund of the entire amount of Rs.16,50,000/- together with 9% interest. Accordingly, the said refund shall be made by opposite party No.1 within three months from today. As a result of this prolonged and protracted litigation without information of the availability of the land, the anguish of the complainants is well justified to receive compensation of Rs.5,00,000/- towards this harassment. It is accordingly ordered that a sum of Rs.5,00,000/- as compensation is payable to the complainants on the facts of the case and circumstances indicated above. The complainants had to bear the litigation expenses for the past ten years. In view of this, the claim of Rs.1,00,000/- towards litigation cost is also justified. Accordingly, the complaint is allowed in the terms indicated above. The payment of litigation cost and compensation shall be by the OP No.1 also be made within three months as directed herein above.