

COUNTRY COLONISERS PVT. LTD. V. ASHOK VERMA & ANR.

1. COUNTRY COLONISERS PVT. LTD.
THROUGH AUTHORIZED SIGNATORY, C-1, SECTOR-3,
NODIA-201301
U.P.

.....Appellant(s)

Versus

1. ASHOK VERMA & ANR.

S/O SH.TULSI RAM,R/O HOUSE NO.MIG-24, A-1, SECTOR-
6, PARWANOO,

HIMACHAL PRADESH

2. GEETA VERMA,

W/O ASHOK VERMA, R/O HOUSE NO.MIG-24, A-1,
SECTOR -6, PARWANOO,
HIMACHAL PRADESH

.....Respondent(s)

Case No: FIRST APPEAL NO. 280 OF 2019

Date of Judgement: 11 Jan 2023

Judges:

HON'BLE MR. DINESH SINGH,PRESIDING MEMBER

HON'BLE MR. JUSTICE KARUNA NAND BAJPAYEE,MEMBER

For the Appellant : Ms. Tanya Verma, Advocate

For the Respondent : Mr. Anand Prakash, Advocate

Facts:

Country Colonisers Pvt. Ltd. (appellant) has filed an appeal

against the order dated 16/10/2018 of the State Consumer Disputes Redressal Commission, Punjab in complaint no. 71 of 2018 filed by Ashok Verma and Geeta Verma (respondents). The matter pertains to a builder-buyer dispute.

Court's Observations and Order:

The State Commission had directed the appellant (builder) to refund Rs. 38,89,930 along with interest at 12% p.a. and pay compensation of Rs. 45,000 to the respondents (buyers) for mental agony and litigation expenses. The builder agreed to refund the amount with interest at 9% p.a. and pay compensation of Rs. 45,000 inclusive of litigation costs within 6 weeks. This payment will be made after first clearing any outstanding loan taken by respondents from financial institutions. The appeal was disposed of based on mutual consent and directions were issued accordingly. It was also directed that this order shall not be treated as a precedent since it was made on consent.

Arguments by Parties:

No arguments have been recorded as the matter was resolved by consent terms agreed between the parties.

Sections:

The appeal has been filed under Section 19 of the Consumer Protection Act, 1986.

Cases Referred: None

Laws:

The Consumer Protection Act, 1986

So in summary, it was a builder-buyer dispute where the parties later agreed to certain consent terms for settlement, which were accepted by the National Commission and directions issued accordingly.

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Court

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Full Text of Judgment:

1. This appeal has been filed under section 19 of The Consumer Protection Act, 1986 in challenge to the Order dated 16.10.2018 of the State Commission in complaint no. 71 of 2018.

2. Heard the learned counsel for the appellant (the 'builder co.') and the learned counsel for the respondents (the 'complainants'). Perused the record.

3. The matter pertains to a builder-buyer dispute. The award made by the State Commission is contained in paras 40, 41 and 42 of its Order. Para 41 thereof is reproduced below for reference:

41. In view of the findings recorded in Consumer Complaint No.71 of 2018, this complaint is also allowed against opposite parties No.1 & 2 in the same terms and the same is dismissed against opposite party No.3. The following directions are issued to opposite parties No.1 & 2:-

i) to refund the amount of ₹38,89,930/- along with interest at the rate of 12% per annum from the respective dates of deposits till realization; after adjusting above said amount. It is made clear that first of all the outstanding loan amount shall be paid by opposite parties No.1 & 2 to opposite party No.3, if not cleared by the complainant, and thereafter, the remaining amount, if any, shall be paid to the complainant; and

ii) to pay ₹45,000/-, as compensation for the mental agony and harassment suffered by the complainant and litigation expenses.

4. Learned counsel for the builder co. submits, on instructions, that the builder co. is ready to refund the amount of Rs. 38,89,930/- deposited by the complainants with interest at the rate of 9% per annum from the respective dates of deposit till actual realisation and is also willing to pay Rs. 45,000/- as compensation for the mental agony and harassment inclusive of litigation expenses. She also submits

that, as ordered by the State Commission vide para 40 of its Order, the amount due to the financial institution which had advanced loan to the complainants will be met first and the balance amount will be paid to the complainants within six weeks from today.

Learned counsel further requests that this case may not be treated as a precedent.

5. Learned counsel for the complainants submits, on instructions, that the afore terms are acceptable to the complainants.

6. In the wake of the above submissions, the appeal is disposed of with the following directions:

The award made by the State Commission is modified to the extent that the builder co. shall refund the amount of Rs. 38,89,930/- deposited by the complainants with interest at the rate of 9% per annum from the respective dates of deposit till actual realisation along with Rs. 45,000/- as compensation inclusive of cost of litigation. The amount due to the financial institution which had advanced loan to the complainants shall be met first and the balance amount shall be made good to the complainants within six weeks from today, failing which the State Commission shall undertake execution, for 'enforcement' and for 'penalty', as per the law.

7. This Order has been made on consent. As such the decision in this case shall not be treated as a precedent.

8. The Registry is requested to send a copy each of this Order to the parties in the appeal and to their learned counsel as well as to the State Commission immediately. The stenographer is requested to upload this Order on the website of this Commission immediately.

9. 'Dasti', in addition, to facilitate timely compliance.