

M/S. SAHARA PRIME CITY LTD. V. DR. KRISHNA HARI SHARMA & ANR.

1. M/S. SAHARA PRIME CITY LTD.
JMD PACIFIC SQUARE , FIRST FLOOR, NEAR 32
MILESTONE SECTOR 15 PART2, NH 8
GURGAON

.....Appellant(s)

Versus

1. DR. KRISHNA HARI SHARMA & ANR.
S/O. DIR DASHRATH SHARMA, R/O. 1KA-17, VIGYAN
NAGAR
KOTA
RAJASTHAN
2. DR, SUNITA SHARMA
W/O. DIR KRISHNA HARI SHARMA , R/O. 1KS-17, VIGYAN
NAGAR
KOTA
RAJASTHAN

.....Respondent(s)

Case No: FIRST APPEAL NO. 560 OF 2020

Date of Judgement: 18 Jan 2023

Judges:

HON'BLE MR. DINESH SINGH, PRESIDING MEMBER
HON'BLE MR. JUSTICE KARUNA NAND BAJPAYEE, MEMBER

For the Appellant : Ms. Neha Gupta, Advocate
For the Respondent : Mr. Vijay Pal Sharma, Advocate

Facts:

Appeal filed by M/s Sahara Prime City Ltd (builder company) against order dated 17.01.2019 passed by State Commission, Rajasthan in complaint no. 132/2016 filed by Dr. Krishna Hari Sharma and Dr. Sunita Sharma (complainants). It is a builder-buyer dispute. Complainants booked a unit with the builder company and paid Rs. 36,17,253. State Commission directed the builder company to refund Rs. 36,17,253 to complainants along with interest at 15% p.a. from date of filing complaint i.e. 19.01.2016. It also directed payment of Rs. 2,00,000 as compensation for mental pain and Rs. 20,000 as cost of litigation.

Court's Opinions:

No elaborate reasoning or opinions have been given by the National Commission. It directly moves to the arguments made by parties.

Arguments:

Builder Company:

Willing to refund deposited amount of Rs. 36,17,253 with 10% p.a. interest from respective dates of deposits. Willing to pay Rs. 2,00,000 as lump sum compensation and Rs. 20,000 as cost of litigation. Any amounts already paid may be adjusted. Requests order not to be treated as precedent.

Complainants:

Accept aforesaid terms provided compliance is done in a time bound manner.

Court's Order:

In view of mutual consent, appeal is disposed of with directions to builder company to refund Rs. 36,17,253 with 10% p.a. interest from respective dates of deposits along with Rs.

2,00,000 compensation and Rs. 20,000 cost of litigation within 8 weeks. Any amount already paid to be adjusted. Order made on consent, not to be treated as precedent.

Sections:

No sections have been cited.

Referred Laws:

Appeal filed under Section 51(1) of the Consumer Protection Act, 2019. Reference made to execution and penalty proceedings under the Consumer Protection Act in case of default in payment.

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Full Text of Judgment:

1. This appeal has been filed under section 51(1) of The Consumer Protection Act, 2019 in challenge to the Order dated 17.01.2019 of the State Commission in complaint no. 132 of 2016.
2. Heard the learned counsel for the appellant (the 'builder co.') and for the respondents (the 'complainants'). Perused the record.
3. The matter pertains to a builder-buyer dispute.

The award made by the State Commission vide its impugned Order dated 17.01.2019 is reproduced below for reference:

Hence, the complaint of the complainant is accepted and it is ordered that:-

ORDER

1. 01. Let the opposite parties shall pay Rs.36,17,253/- (Rupees thirty six lakh seventeen thousand two hundred fifty three) whenever it was deposited by the complainant from the same with 15% interest per annum from the date of filing complaint i.e. 19.01.2016 and shall pay interest at the rate

of 9% per annum from the date of filing complaint i.e. 19.01.2016;

2. Let the opposite parties shall pay Rs. 2,00,000/- (Rupees two lakh) as compensation for mental pain and Rs. 20,000/- (Twenty thousand) as costs of litigation within two months from the date of order with 9% per annum from the date of filing complaint i.e. 19.01.2016.

4. Learned counsel for the builder co. submits, on instructions, that the builder co. is willing to refund the amount of Rs. 36,17,253/- deposited by the complainants with interest at the rate of 10% per annum from the respective dates of deposit till actual realisation along with Rs. 2,00,000/- as lumpsum compensation and Rs. 20,000/- as cost of litigation. She also submits that the amount if any already paid to the complainants in compliance of this Commission's interlocutory Orders dated 11.09.2020 and dated 28.07.2021 may be duly adjusted therein. 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, provided the compliance in its entirety is made in a time-bound manner.

6. Learned counsel for the builder co. submits, on instructions, that the compliance will be ensured within eight weeks from today.

7. In the wake of the above submissions nothing more survives for adjudication in this appeal. The same is thus 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.36,17,253/- deposited by the complainants with interest at the rate of 10% per annum from the respective dates of deposit till actual realisation along with Rs. 2,00,000/- as lumpsum compensation and Rs. 20,000/- as cost of litigation. The amount if any already paid to the complainants in compliance of this Commission's interlocutory Orders dated 11.09.2020 and dated 28.07.2021 shall be duly adjusted therein. The residual

amount of the award, as firmed-up herein, shall be made good by the builder co. within eight weeks from today, failing which the State Commission shall undertake execution, for 'enforcement' and for 'penalty', as per the law.

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

9. 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.

'Dasti', in addition, to both sides.