

M/S. TANEJA DEVELOPERS & INFRASTRUCTURE LTD. V. RAJ DULARI BANSAL

1. M/S. TANEJA DEVELOPERS & INFRASTRUCTURE LTD.
10 SHAHEED BHAGAT SINGH MARG NEAR GOLE
MARKET
NEW DELHI 1

.....Appellant(s)

Versus

1. RAJ DULARI BANSAL
W/O. SH. JAGDISH BANSAL AE 110, SHALIMAR BAGH
DELHI 110088

.....Respondent(s)

Case No: FIRST APPEAL NO. 1024 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. Yashodhara Gupta, Proxy Advocate for
Ms. Kanika Agnihotri, Advocate

For the Respondent : Mr. Vikrant Mittal, Advocate with
Mr. Anubhav Bansal, Auth. Rep.

Facts:

***Complainant booked a property with the builder (appellant).
State Commission directed the builder to refund Rs. 34,03,336
to the complainant along with interest and litigation cost
vide order dated 29.03.2019. Builder has filed appeal against***

this order.

Arguments:

Appellant (Builder):

The entire deposited amount of Rs. 34,03,336 has already been refunded to the complainant. Willing to pay interest at 10% p.a. on this amount from 17.04.2008 to 03.12.2019 (date of refund). Requests that this case may not be treated as a precedent.

Respondent (Complainant):

Confirms receipt of Rs. 34,03,336 that was directed to be refunded by State Commission. Agrees with builder's offer to pay interest from 17.04.2008 to 03.12.2019 at 10% p.a. Seeks disposal of appeal on consent terms.

Court's Observations and Decision:

In view of both parties agreeing to the terms offered by builder, appeal disposed as follows:

- 1. Builder to refund amount of Rs. 34,03,336 with 10% p.a. interest from 17.04.2008 to 03.12.2019.*
- 2. Builder to also pay litigation cost of Rs. 25,000.*
- 3. Amount already paid to be adjusted. Residual to be paid in 6 weeks.*
- 4. Order passed with consent, not to be treated as precedent.*

Sections:

Section 19 of Consumer Protection Act 1986

Laws/Cases Referred: None

The summary covers the key facts, arguments by both sides, court's decision and relevant section. Please let me know if you need any other details to be included.

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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 29.03.2019 of the State Commission in complaint no. 684 of 2013.

2. Ms. Yashodhara Gupta, learned advocate appears as proxy counsel for the appellant (the 'builder co.'). She makes her submissions on instructions. Mr. Vikrant Mittal, learned advocate appears as counsel for the respondent (the 'complainant').

3. We have heard the learned proxy counsel for the builder co. and the learned counsel for the complainant and have perused the record.

4. The matter pertains to a builder-buyer dispute. The award made by the State Commission vide its impugned Order of 29.03.2019 is reproduced below for reference:

21. In view of above discussion, we allow the complaint and direct the OP to refund to complainant amount of Rs. 34,03,336/- with interest @10% p.a. from the date of each payment till payment. OP shall pay Rs. 25,000/- towards cost of litigation to complainant.

5. Learned proxy counsel for the builder co. submits, on instructions, that the entire deposited amount of Rs. 34,03,336/- has been refunded by the builder co. to the complainant by 03.12.2019. She also submits, on instructions, that the builder co. is willing to pay interest at the rate of 10% per annum on the said amount of Rs. 34,03,336/- for the period from 17.04.2008 to 03.12.2019. She further submits that the balance amount, after adjustment of the amount already paid, will be made good within six weeks from today. Learned counsel also requests that this case may not be treated as a precedent.

5. Learned counsel for the complainant confirms, on instructions, the receipt of the amount of Rs. 34,03,336/- by 03.12.2019. He further submits, on instructions, that the terms being offered by the builder co. are acceptable to the complainant. Authorised representative of the complainant, present in person, endorses the submissions made by the

learned counsel.

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. 34,03,336/- deposited by the complainant with interest at the rate of 10% per annum for the period from 17.04.2008 to 03.12.2019 along with cost of litigation of Rs. 25,000/-. The amount already paid shall be adjusted therein. The residual amount, after adjustment of the amount already paid, shall be made good within six 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.