

SAHARA CITY HOMES MARKETING & SALES V. PRATAP SINGH SHEKHAWAT

1. SAHARA CITY HOMES MARKETING & SALES CORPORATION (SAHARA PRIME CITY LTD.) & ANR. SAHARA PRIME CITY LTD, AUTHORIZED REP. OPP RADHA SWAMI SATSANG VYAS . VILLAGE BILWA TONK ROAD JAIPUR 302022

2. SAHARA CITY HOMES MARKETING AND SALES SAHARA PRIME CITY LTD, THROUGH AUTHORISED REP. SAHARA INDIA CENTER, 2 KAPOORTHALA COMPLEX ALIGANJ LUCKNOW UTTAR PRADESH 226024

.....Appellant(s)

Versus

1. PRATAP SINGH SHEKHAWAT S/O. SHRI LAL SINGH SHEKHAWAT, R/O. PHOOL SINGH JI HAWELI, VILLAGE AND POST BADHOLIL VIA SARAI, SOORPUR JHUNJHUNU RAJASTHAN

.....Respondent(s)

Case No: FIRST APPEAL NO. 925 OF 2021

Date of Judgement: 10 Jan 2023

Judges:

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

For the Appellant : Ms. Neha Gupta, Advocate

For the Respondent : Mr. Sushil Kaushik, Advocate with
Mr. Himanshi Singh, Advocate
Respondent present in person

Facts:

Dispute between builder (Appellants) and flat buyer (Respondent). Respondent had deposited Rs. 16,98,835 for flat booking. State Commission ordered builder to refund amount with 15% interest + Rs. 2 lakh compensation + Rs. 50,000 litigation costs. Builder filed appeal against State Commission order.

Arguments by Parties

Appellant Builder:

Wanted relief from higher interest rate and compensation awarded.

Respondent Buyer:

Wanted State Commission order to be upheld.

Elaborate Opinion by NCDRC

Notes the award granted by the State Commission (principal + 15% interest + compensation + costs). Builder agrees to refund principal amount + 10.5% interest + Rs. 2 lakh compensation + Rs. 50,000 costs. Terms agreeable to buyer subject to time bound compliance.

Order by NCDRC

State Commission order modified. Builder to refund principal + 10.5% interest + Rs. 2 lakh compensation + Rs. 50,000 costs. Payment to be made within 6 weeks, else interest will be 12% instead of 10.5%. Order made on consent to avoid precedent.

Sections Referred:

Section 51 of Consumer Protection Act, 2019

Laws Referred:

None

This summarizes the key details and arguments in the case under specific headings. Please let me know if you need any clarification.

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Full Text of Judgment:

1. This appeal has been filed under section 51 of The Consumer Protection Act, 2019 in challenge to the Order dated 31.10.2019 of the State Commission in complaint no. 145 of 2018.

2. Heard the learned counsel for the appellants (the 'builder co.') and the learned counsel for the respondent (the 'complainant'). Perused the record.

3. The matter pertains to a builder-buyer dispute.

The award made by the State Commission vide its impugned Order dated 31.10.2019 is reproduced below for reference:

In view of the above, the complaint is allowed and the complainant is entitled to get Rs. 16,98,835/- alongwith 15% interest from the date of each deposit. The complainant is further entitled to get Rs. 2 lakhs as compensation for mental agony and Rs. 50,000/- as cost of proceedings which should be paid to the complainant within one month otherwise it will carry 9% interest from the date of the order.

4. Learned counsel for the builder co. submits, on instructions, that the builder co. is willing to refund the amount of Rs. 16,98,835/- deposited by the complainant with interest at the rate of 10.5% per annum from the respective dates of deposit till actual realisation along with lumpsum compensation of Rs. 2,00,000/- and cost of litigation of Rs. 50,000/-.

5. Learned counsel for the complainant submits, on

instructions, that the afore terms are acceptable to the complainant, provided the compliance in its entirety is made within six weeks from today and in case of default the amount of Rs. 16,98,835/- deposited by the complainant may carry interest at the rate of 12% per annum in place of 10.5% per annum. The complainant present in person confirms.

6. Learned counsel for the builder co. submits, on instructions, that the award as suggested herein will be complied with in its entirety within six weeks from today.

7. 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. 16,98,835/- deposited by the complainant with interest at the rate of 10.5% per annum from the respective dates of deposit till actual realisation along with Rs. 2,00,000/- as lumpsum compensation and Rs. 50,000/- as cost of litigation.

The entire payment shall be made good within six weeks from today, failing which the amount of Rs. 16,98,835/- deposited by the complainant shall carry interest at the rate of 12% per annum in place of 10.5% per annum.

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.