

SAHARA PRIME CITY LIMITED & 2 ORS. V. CHANDER PRAKASH JAIN

1. SAHARA PRIME CITY LIMITED & 2 ORS.
OPP. RADHA SWAMI SATSANG VYAS GAON, TONK ROAD.
JAIPUR.

2. SAHARA INDIA COMMERCIAL CORPORATION LTD.
THROUGH AUTHORIZED REPRESENTATIVE. HEAD &
REGD. OFFICE AT:- SAHARA INDIA CENTRE, 1
KAPURTHALA COMPLEX,ALIGANJ.
LUCKNOW-226024
U.P.

3. SAHARA CITY HOMES AND SALES CORPORATION.
THROUGH AUTHORIZED REPRESENTATIVE. HEAD &
REGD. OFFICE AT:- SAHARA INDIA CENTRE, 1
KAPURTHALA COMPLEX, ALIGANJ.
LUCKNOW-226024.
U.P.

.....Appellant(s)

Versus

1. CHANDER PRAKASH JAIN
S/O. RAMPAL JAIN. R/O. 204 MAKIJA TOWER, OLD
PRABHAT CINEMA, BAPU NAGAR.
AJMER.
RAJASTHAN

.....Respondent(s)

Case No: FIRST APPEAL NO. 1926 OF 2019

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. Nayan Dubey, Advocate

Facts:

Dispute between builder (Appellants) and flat buyer (Respondent). Respondent had deposited Rs. 19,46,882 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:

At time of admission, Builder offered to pay principal + 8% interest + Rs. 50,000 costs within 8 weeks. Builder paid as per offer which Respondent accepted. Residual issue was higher rate of interest and compensation amount. Builder agrees to pay 10% interest on principal amount. Builder agrees to pay Rs. 2 lakh compensation. Terms acceptable to Respondent subject to time bound compliance.

Order by NCDRC:

State Commission order modified. Builder to pay principal + 10% interest + Rs. 2 lakh compensation + Rs. 50,000 costs. Amount to be paid within 6 weeks, else interest will be 12% instead of 10%. Order made based on consent to avoid precedent.

Sections referred:

Section 19 of Consumer Protection Act 1986.

This covers the key details and arguments related to the case in a structured manner under specific headings as requested. Please let me know if you need any clarification or have additional requirements.

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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 29.11.2018 of the State Commission in complaint no. 34 of 2017.

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. On 09.10.2019, at the time of admission, the following Order was made by this Commission:

09.10.2019

Heard learned counsel for the appellants – builder co. Perused the material on record.

In the State Commission's impugned Order dated 29.11.2018 the following was awarded to the complainant:

In view of the above, the complaint is allowed and the complainant is entitled to get Rs. 19,46,882/- 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.

Learned counsel for the appellants – builder co. submits, on instructions, that the appellants – builder co. is ready and willing to refund the entire amount deposited by the complainant with interest @ 8% p.a. from the dates of

respective deposits till its realisation and to pay cost of litigation of Rs. 50,000/- to the complainant within eight weeks from today.

If the entire amount deposited by the complainant is refunded with interest @ 8% p.a. from the dates of respective deposits till its realisation and cost of litigation of Rs. 50,000/- is paid to the complainant as per the afore submission, the operation of the impugned Order of the State Commission in so far as it relates to payment of interest over and above 8% p.a. and compensation shall remain stayed till the disposal of this appeal.

It is made clear that if the appellants – builder co. fails to comply with the afore submission within the stipulated period of eight weeks from today, the State Commission shall proceed for execution of its Order as per the law.

Issue notice on the application for condonation of delay and on the memo of appeal to the respondent.

The Registry may ensure that the notice is issued and despatched within a period of ten days.

List the matter for further hearing on 18.02.2020.

4. In reference to the above-quoted Order of 09.10.2019, learned counsel for the builder co. submits, on instructions, that the builder co. has refunded the entire amount of Rs.19,46,882/- deposited by the complainant with interest at the rate of 8% per annum from the respective dates of deposit till actual realisation and has also paid the cost of litigation of Rs. 50,000/-.

Learned counsel for the complainant confirms, on instructions.

5. The only residual questions in this appeal are, one, regarding the rate of interest over and above 8% per annum on the amount of Rs.19,46,882/- deposited by the complainant, and, two, regarding the lumpsum compensation of Rs. 2,00,000/-

6. Learned counsel for the builder co. submits, on instructions, that the builder co. is willing to pay interest at the rate of 10% per annum on the amount of Rs.19,46,882/- deposited by the complainant and is also willing to pay

lumpsum compensation of Rs. 2,00,000/-.

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 eight weeks from today and in case of default the amount of Rs.19,46,882/- deposited by the complainant may carry interest at the rate of 12% per annum in place of 10% per annum.

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.19,46,882/- deposited by the complainant 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. 50,000/- as cost of litigation.

The amount already paid in compliance of this Commission's Order dated 09.10.2019 shall be adjusted therein.

The residual amount after adjustment shall be made good within six weeks from today, failing which the amount of Rs.19,46,882/- deposited by the complainant shall carry interest at the rate of 12% per annum in place of 10% 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.