

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

FIRST APPEAL NO. 560 OF 2020

(Against the Order dated 17/01/2019 in Complaint No. 132/2016 of the State Commission Rajasthan)

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)

BEFORE:

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

Dated : 18 Jan 2023

ORDER

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.

.....
DINESH SINGH
PRESIDING MEMBER
.....J
KARUNA NAND BAJPAYEE
MEMBER