

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 1112 of 2015
(Arising out of SLP(C) No.20049 of 2013)

Indu Bala Satija

Appellant(s)

VERSUS

Haryana Urban Development Authority

Respondent(s)

O R D E R

Leave granted.

This appeal is directed against an order dated 1st May, 2013 passed by the National Consumer Disputes Redressal Commission (for short 'National Commission') in Revision Petition No.1506 of 2012.

The appellant had applied for a plot with the Haryana Urban Development Authority (for short 'HUDA'). She was allotted Plot No.2551 in Sector 65, Faridabad vide allotment letter dated 5th November, 2001 at a tentative price of Rs.4,66,250/-. The appellant deposited 10% of the amount along with her application and subsequently deposited a further amount of Rs.69,938/-. In all, she deposited Rs.1,16,563/-.

HUDA subsequently enhanced the cost of the plot from Rs.4,66,250/- to Rs.8,25,900/-.

According to the appellant, she could not afford this amount and, therefore, she surrendered her plot and sought a refund of the deposited amount. She received a

communication from HUDA informing her that the application for surrender of the plot has been accepted and along with the letter she was given a sum of Rs.33,973/- vide cheque dated 17th March, 2003. The appellant encashed this cheque. Subsequently, the appellant requested for withdrawal of her surrender application with the condition that in case HUDA withdraws the enhancement in the cost of the plot, her application for surrender may be deemed to be withdrawn. This conditional withdrawal was not acceptable to HUDA and the plot allotted to the appellant stood cancelled.

Feeling aggrieved by the cancellation as well as by the claim that the appellant should have been returned the entire amount, she made a complaint before the District Consumer Forum which allowed her complaint. Against the order of the District Consumer Forum, HUDA preferred an appeal before the State Consumer Commission and the appeal filed by HUDA was allowed. Thereafter, the appellant preferred a revision petition before the National Commission which was dismissed by the impugned order. While dismissing the revision petition, the National Commission imposed a cost of Rs.10,000/- on the appellant.

The grievance of the appellant is that the plot ought not to have been cancelled because she had withdrawn her

letter surrendering the plot. We are not inclined to entertain this submission in view of the fact that HUDA accepted her surrender application and remitted an amount of Rs.33,973/- to her along with the letter accepting the surrender and this amount was encashed by the appellant. That apart, the withdrawal of surrender by the appellant was conditional inasmuch as she stated that her application for surrender may be deemed to be withdrawn if the excess amount sought to be charged by HUDA is withdrawn.

According to the appellant, HUDA ought to have refunded the entire amount which was deposited by the appellant. This is disputed by the learned counsel appearing for HUDA who submits that HUDA was entitled to deduct 10% of the enhanced amount by way of forfeiture. We are unable to appreciate this submission. If the cost of the plot is unreasonably enhanced by HUDA and 10% forfeiture amount comes to more than the amount deposited by an applicant, then it would mean that HUDA can recover some further amount even if the applicant had surrendered the allotment. Such an unreasonable interpretation of its policy of forfeiture by HUDA is not acceptable. The forfeiture must be limited to 10% of the amount as originally intimated to the applicant, which in this case was Rs.4,66,250/-.

In other words, HUDA could have forfeited only 10% of the original price as notified to the applicant, that is, 10% of Rs.4,66,250/-. However, HUDA has forfeited an amount of Rs.82,590/- based on the enhance price. Accordingly, since we have held that HUDA could not have forfeited 10% of the enhanced amount, HUDA is liable to refund to the appellant an amount of Rs.35,965/-, which is still lying with HUDA. This amount, in our opinion, has unreasonably been withheld by HUDA and we, therefore, direct HUDA to refund this amount, viz., Rs.35,965/- to the appellant within a period of one month from today along with interest at the rate of 9% per annum with effect from 25th March, 2003, that is the date on which the surrender application was accepted.

We make it clear that the order passed by the National Commission imposing cost of Rs.10,000/- on the appellant is set aside.

The appeal is disposed of on the above terms. However, there shall be no order as to costs.

.....J.
(MADAN B. LOKUR)

.....J.
(UDAY UMESH LALIT)

ITEM NO.2

COURT NO.10

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).20049/2013

(Arising out of impugned final judgment and order dated 01/05/2013 in RP No. 1506/2012 passed by the National Consumer Disputes Reddressal Commission, New Delhi)

INDU BALA SATIJA

Petitioner(s)

VERSUS

HARYANA URBAN DEV. AUTH.

Respondent(s)

(With appln.(s) for adjournment and permission to file additional documents and interim relief and office report)

Date : 21/01/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Venkita Subramoniam T. R., AOR

For Respondent(s) Mr. Narender Hooda, Sr. Adv.
Ms. Bano Deswal, Adv.
Mr. Tushar Roy, Adv.
Mr. Kamal Mohan Gupta, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed
order.

(SANJAY KUMAR-I)
COURT MASTER

(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)