



सत्यमेव जयते

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न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No.5226/1093/2015

Dated 24.01.2017

In the matter of:

Shri Pravin Nigam ^{D711}
Email – anjunigam599@gmail.com

.... Complainant

Versus

Delhi Development Authority, ^{D712}
Through: The Vice Chairman
Vikas Sadan, I.N.A., New Delhi
Email – vcdda@dda.org.in

.... Respondent

Dates of Hearing – 26.07.2016, 16.09.2016, 21.10.2016 and 25.10.2016

Present:

26.07.2016:

1. Smt. Anju Nigam (mother of Shri Vaibhav Nigam, a person with mental retardation), w/o Shri Pravin Nigam, the complainant
2. Shri C.L. Roy, Dy. Director (Land Disposal Department) on behalf of respondent

16.09.2016:

1. Smt. Anju Nigam on behalf of complainant
2. Ms. Poonam Mathur, Director, Housing and Shri Dharmender Sharma, Dy. Director, on behalf of respondent

21.10.2016:

1. Smt. Anju Nigam on behalf of complainant
2. Shri Dharmender Sharma, Dy. Director and Pramod Kumar, Sr. A.O. (SFS) on behalf of respondent.

25.10.2016:

1. Shri Pravin Nigam, the complainant and Smt. Anju Nigam
2. Shri Dharmender Sharma, Dy. Director and Shri Pramod Kumar, Sr. A.O. (SFS) on behalf of respondent.

ORDER

The above named complainant, on behalf of his son Shri Vaibhav Nigam, a person with 50% mental retardation, filed a complaint dated 22.09.2015 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred

to as the 'Act' for refund of excess amount charged as interest along with interest at the rate the respondent have been charging from the complainant on account of allotment of a flat by the respondent to the complainant.

2. The complainant submitted that his son was allotted flat bearing No.6, Block N-1, Pocket D-6, Vasant Kunj, New Delhi in the draw held on 18.04.2011 by the respondent vide allotment letter dated 29.03.2012 on hire purchase basis. The complainant was required to pay 25% of total cost of flat and a sum of Rs.15,43,417/- which was paid to the respondent and EMIs of Rs.62,706/- per month were required to be paid for 15 years. The possession of the flat was not given for 02 years but the EMIs were started from July, 2012, much before the possession of the flat to his son. He wrote a letter dated 28.06.2012 to the respondent but no reply was received. Since the respondent was not informing the complainant about the rate of interest being charged on the loan amount, he wrote a letter dated 23.01.2013 inquiring about the rate of interest and the amount so charged against the interest but in vain. He visited the respondent's Office many times for the purpose and requested to refund the excess amount.

3. The matter was taken up with the respondent vide letter dated 12.10.2015 followed by reminders dated 14.01.2016 and 28.04.2016 for submission of comments. Since no reply was received, the case was listed for hearing on 26.07.2016 and parties were summoned to appear with requisite information, documents, inputs, etc.

4. During the hearing the complainant reiterated his complaint and added that the flat was allotted under disability quota.

5. The representative of the respondent, the Deputy Director submitted that the case of MIG Flat, Vasant Kunj pertains to Housing Department and the Director, Housing, Smt. Poonam Mathur might be called to explain the complete facts and resolve the grievance.

6. It was observed that the total cost of the flat was Rs.61,73,667/- and the complainant had paid an amount of Rs.1,50,000/- as Registration money and deposited an amount of Rs.15,43,417/- as initial deposit. The balance amount due to complainant was Rs.44,80,250/-.

7. After hearing both the parties, the respondent was directed to file a reply in the matter specifically mentioning the rate of interest to be charged on the balance amount. The respondent was also directed to direct Smt. Poonam Mathur, Director, Housing, MIG, D-Block, Second Floor, Vikas Sadan, INA, New Delhi to appear before this Court on 16.09.2016 at 11:30 A.M. along with relevant record for explaining the case before the Court.

8. During the hearing on 16.09.2016, the respondent did not submit their reply. However, the representative of the respondent submitted a copy of the letter No.F 2/365(665)12-DDA-10/VK/2769 dated 14.09.2016 addressed to Shri Vaibhav Nigam intimating him that - (1) DDA had given rebate of Rs.1,00,000/- to him under P.H. quota as mentioned in Demand letter dated 29.03.2012. (2) The rate of interest charged by DDA on the balance amount/late payment of instalment is mentioned in the Demand-Cum-allotment letter issued by DDA and it is mentioned that interest will be charged @ 12% p.a. for the first month and 18% p.a. for subsequent months. (3) As per record available, Rs.16,30,356/- has been paid by the complainant till date. (4) If the complainant is interested to convert in cash down he has to pay Rs.52,27,554/- on or before 10.10.2016. Final calculation would be done after receipt/verification of the payment.

9. Smt. Anju Nigam submitted that she received a copy of the respondent's letter dated 14.09.2016 addressed to her son, Shri Vaibhav Nigam on the date of hearing itself in the Court. She reiterated her written submissions and added that DDA has to adjust excess amount in instalments paid against the principal amount as on that date. She expected that DDA should have considered in its policy whether any interest could be charged from an M.R. child who cannot earn his livelihood of his own. As per para No.3 of the reply of the respondent dated 14.09.2016, the amount of Rs.16,30,356/- had been paid by the complainant on that date. As per para 4 of the said reply, DDA demanded Rs.52,27,554/- on or before 10.10.2016 for converting in cash down whereas the initial amount Rs.44,80,250/- was required to be paid in the year 2012, which was stated to be paid by the complainant in instalments regularly.

10. After hearing both the parties the complainant was directed to submit detail of payments made to DDA, to the respondent within 7 days. The respondent was directed to provide detailed calculation sheet along with the rate of interest, interest component on principal amount and interest charged in these years within 21 days thereafter. The case was adjourned to 21.10.2016.

11. As directed by this Court, the complainant did not submit detail of payments made to DDA. During the hearing on 21.10.2016, the representative of the complainant submitted that despite her request to Deputy Director Housing, she could not get any reconciliation statement of the amount paid by the complainant to DDA. The representative of the respondent provided a copy of computerized calculation sheet in which the principal amount, number of instalments, rate of interest and rate of monthly instalments were shown. The complainant submitted that DDA nowhere mentioned as to how a loan amount of Rs.44,80,250/- after regular payment of instalments became

Rs.52,27,554, and in case, if complainant wishes to opt to convert for cash down after three years, DDA may ask to deposit a sum of Rs.70,00,000/-.

12. The representative of the respondent filed a computerized statement, showing – Amount Rs.44,80,250/-, No. of instalments – 180, Rate of interest – 15.0% and rate of monthly instalments – Rs.62,705/-, the same was taken on record. The representative of the respondent submitted that on the basis of Challans submitted by the complainant, DDA had accounted for the amount. The representative also requested that the complainant should submit copies of the challans or Bank Certificate to DDA for reconciliation of the monthly instalments deposited.

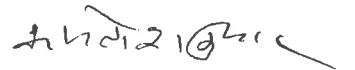
13. After hearing the respondent it was observed that their record was not updated as the last entry was of the year 2014 whereas per complainant, she had deposited the EMIs upto October, 2016. It was very strange that the complainant was depositing the monthly instalments timely but the respondent had not maintained/updated their record right from September, 2014 onwards, which was lapse on behalf of the respondent. The respondent was directed to submit – (i) the complete account statement showing the EMIs received by them upto October 2016; (ii) balance amount received to be payable by the complainant; (iii) the copy of the policy as per which the interest was being charged @15%. The respondent was also directed to take note of the misconduct of the officials of Cash and Accounts Section and take necessary action against them as per the instant instructions so that such type of incident could not occur again and the parents of the persons with disabilities should not run from pillar to post for their legitimate rights. The case was adjourned to 25.10.2016 with the direction to the respondent that if they fail to produce the above information on the date of hearing, they may file Affidavit of the concerned Director to the effect that no payment was received by the respondent organization from the complainant since September, 2014 in the matter mentioning the reason for not issuing the default notice.

14. During the hearing on 25.10.2016, the representative of respondent submitted – (i) a copy of Statement of Account showing the EMIs received by them from complainant upto October, 2016; (ii) Balance amount payable by the complainant; and (iii) copy of the policy as per which the interest was being charged @ 15%. The respondent also submitted that the Authority in its meeting held on 21.02.2012, vide Resolution No.9/2002, had decided to charge interest @ 15% PA on monthly reducing balance in case of hire purchase allottees and had circulated the Office Order No.F.21(Misc)91/NT/HAC/201/49 dated 16/22.04.2002 in this regard.

15. The complainant submitted that DDA is charging interest @ 15% per annum whereas the bank is charging interest @ 9%.

16. From the facts mentioned above, it was observed that the respondent issued Allotment Letter No.2/365(665)2012/DDA10/VK/449 dated 29.03.2012 to the complainant with regard to the allotment of the flat bearing No.6, Block N-1, Pocket D-6, Vasant Kunj, New Delhi and as per the agreed terms, he paid 53 instalments out of the total 180 monthly instalments. The allegation made by the complainant that excess amount as interest have been charged by the respondent has no substance in the light of the Allotment Letter No.2/365(665)2012/DDA10/VK/449 dated 29.03.2012 issued to the complainant and in terms of the Office Order No.F.21(Misc.)9/INT/HAC/2001/49 dated 16/22.04.2002 of the respondent. In case the respondent is charging higher rate of interest in comparison to the banks, the respondent may consider to charge interest from the persons with disabilities at par with the banks and other financial institutions to provide equality to the persons with disabilities.

17. The case is accordingly disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities