

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7473 OF 2008

PUNJAB URBAN PLANNING AND DEVELOPMENT  
AUTHORITY & ANR.

..... APPELLANT(S)

VERSUS

MANDEEP KANG

..... RESPONDENT(S)

O R D E R

This appeal by special leave challenges the judgment and order dated 09.01.2008 passed by the National Consumer Disputes Redressal Commission in First Appeal No.424/2002.

In response to an advertisement for sale by auction of free- hold commercial sites situated at Crystal Plaza, Chotti Baradari, Jalandhar, Punjab, the respondent had emerged as successful bidder in respect of Property No.SCO No.27. She had deposited towards the total sale price following sums:

- i) 10% of auction money was deposited on 29.08.2001 at the time of auction - Rs.2,11,205.00
- ii) 15% of auction money deposited within 30 days after allotment i.e. 26.09.01 - Rs.3,16,810.00

iii) Lumpsum payment was deposited on  
29.10.2001 within 60 days from the  
auction - Rs.15,04,835.00

The allotment of aforesaid shop-cum-office was on as is where is basis.

The respondent, filed complaint No.18 of 2002 before the Consumer Disputes Redressal Commission, Chandigarh.

It was her case that despite huge investment as stated above, the appellant had not made any arrangement for sewerage, drainage, street lights and other amenities and had thus deprived the respondent of the benefits of such investment. The respondent in the circumstances claimed damages at the rate of Rs.50,000/- per month and a sum of Rs.4 lakhs on account of escalation in cost of construction.

The complaint so filed by the respondent was accepted by the State Commission vide its order dated 06.09.2002. The State Commission found merit in the contention that in the absence of development in the area, the respondent could not have gone ahead with construction nor could she have submitted a building plan as per Clause 12 of the letter of allotment. The State Commission held that the appellants were deficient in rendering services to the respondent-complainant and, therefore, passed the following order:

"In view of the foregoing discussion, we hold that the OP's were deficient in rendering service to the complainant which she had hired

or availed and apart from it, the OP's also indulge in unfair trade practice in not providing the basic amenities and facilities in the area aforesaid. The complaint is allowed to the extent that the OP's shall remove the deficiency in service by providing basic amenities like street lights, water supply, toilets, road, 16 ft. wide pavements for the site as shown in the PUDA site plan, sewerage connection and parking within a period of six months from the date of receipt of copy of this order and permit the complainant to submit thereafter the building plan for the construction of SCO as required by Clause 12 of the letter of allotment and to take action thereon according to law. The complainant shall get interest at the rate of 18 per cent per annum over the amount of deposit from the respective dates of deposits till the possession of the allotted plot is offer to her. This interest at the rate of 18 per cent per annum will take care of the escalation in the cost of building material required for construction of the SCO and no separate compensation is to be awarded on this account. So far as the harassment and agony suffered by the complainant on account of deficiency in service on the part of OP's is concerned, a sum of Rs.25,000/- is allowed. A sum of Rs.3,000/- is allowed as costs of litigation. The complaint is disposed of accordingly. Let the directions made in this order be carried out within a period of six months as mentioned above."

The aforesaid order was challenged in appeal by the appellant by filing First Appeal No.424 of 2002 before the National Consumer Disputes Redressal Commission, New Delhi. The National Commission affirmed the view taken by the State Commission as regards deficiency in service on the part of the appellant but reduced the rate of interest from 18 per cent to 12 per cent per annum.

We have heard Ms. Rachana Joshi Issar, learned Counsel appeared on behalf of the appellant. None appeared for the respondent.

While recording finding on deficiency on part of the appellant, the State Commission proceeded on a premise that it was always an implied condition of the project that the basic infrastructure and facilities would be made available by the appellant well in time. As a result of delay on the part of the appellant, according to the State Commission, the respondent had to bear additional cost of construction and thus the appellant would be liable for making good the loss suffered by the respondent.

The National Commission, in the course of its Order under appeal, observed:

“There could not be any doubt that though it is not so mentioned it should be implied for a site plan of the shop-cum-office complex would surely indicate that it would be located in a developed park.”

We have gone through the record and find ourselves unable to accept the view taken by the the State Commission and National Commission. Further, award of interest in order to compensate the respondent towards increase in construction cost was also completely unrelated to the nature of relationship between the parties. We, therefore, accept this appeal, set aside the

orders passed by the State Commission and the National Commission. No costs.

The appeal stands disposed of in the aforesaid terms. Pending applications, if any, stand disposed of.

.....J.  
[UDAY UMESH LALIT]

.....J.  
[D.Y. CHANDRACHUD]

New Delhi  
4<sup>th</sup> October, 2018.

ITEM NO.107

COURT NO.11

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

Civil Appeal No(s).7473/2008

PUNJAB URBAN PLANNING AND DEVELOPMENT AUTHORITY &amp; ANR.Appellant(s)

VERSUS

MANDEEP KANG

Respondent(s)

Date : 04-10-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE DR. JUSTICE D.Y.CHANDRACHUD

For Appellant(s)      Ms. Rachana Joshi Issar, AOR  
                                 Ms. Vandana Mishra, Adv.  
                                 Mr. K.Vaijayanathi, Adv.  
                                 Mr. Shailabh Pandey, Adv.

For Respondent(s)      Mr. Anis Ahmed Khan, AOR

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

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

(INDU MARWAH)  
COURT MASTER

(SUMAN JAIN)  
BRANCH OFFICER

(Signed order is placed on the file)