

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION, HARYANA,  
PANCHKULA**

First Appeal No.1432 of 2002

Date of Institution: 1.7.2002

Date of Decision: 4.3.2009

1. Haryana Urban Development Authority, Sector-6, Jhajjar through its Chief Administrator.
2. Haryana Urban Development Authority through its Estate Officer, Bahadur, District Jhajjar.

---Appellants (Opposite Parties)

Versus

M/s Golden Horse Box Makers, through its prop. Harmohinder Singh r/o A-88, Lajpat Nagar, New Delhi, through its Constituted attorney Narinder Singh s/o Sh. Balbir Singh r/o Village Nangal Dewat, New Delhi.

---Respondent (Complainant)

**BEFORE:**

Hon'ble Mr. Justice R.S. Madan, President.  
Dr. Rekha Sharma, Member.  
Mr. Diwan Singh Chauhan, Member

For the Parties: Mr. Rajneesh Malhotra, Advocate for appellants.  
Mr. D.S. Nain, Advocate for respondent.

**ORDER**

**Justice R.S. Madan, President:**

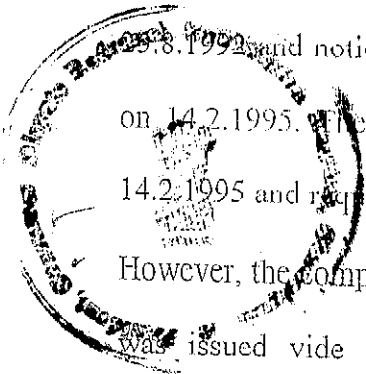
This appeal is directed against the order dated 16.4.2002 passed by the District Consumer Disputes Redressal Forum, Jhajjar whereby while accepting the complaint of the respondent-complainant following relief was granted:

“We hereby allowed the complaint by giving the direction to the opposite party to give the physical possession of the alleged plot to the complainant without charging any extension fee because opposite party is not entitled to get the extension fee without development of area fully.”

The facts giving rise to the present appeal are that the complainant invoked the jurisdiction of the District Consumer Forum, Jhajjar by filing complaint with the averments he was allotted an industrial plot No.2324 measuring 250 sq. yards situated in M.I.E., Phase-I, Bahadurgarh vide allotment letter No.1975 dated 7.2.1978. Conveyance-deed between the parties was executed on 14.10.1985, which was duly registered in the office of Sub Registrar, Bahadurgarh as document No.1960 dated 14.10.1985. The possession of the plot was delivered to the complainant on 16.3.1982 without completing the development works i.e. laying of sewerage, construction of roads, installation of

electricity, provision for drilling water and other amenities, due to which complainant could not raise construction over the said plot. In the month of June, 2001 the complainant came to know that the plot in question was resumed without issuing any notice to the complainant, vide order dated 29.7.1998. The complainant wrote letter dated 12.11.1999 following by another letter dated 9.1.2000 whereby request was made to the opposite parties to issue fresh certificate of possession as the complainant was willing to start construction over the plot in question. The opposite parties did not restore the possession of the plot to the complainant. Hence, this complaint.

Upon notice, the opposite parties appeared and contested the complaint. They admitted the allotment of the plot in question to the complainant vide memo No.1975 dated 7.2.1978. However, they denied the averments made in the complaint that the possession was delivered without any development works. It is stated that the possession was offered vide Memo No.5909 dated 23.2.1982 and was delivered at the site without any objection on 16.3.1982, as all the developments works were complete at the time of deliver of possession of the plot to the complainant. It is further pleaded that the complainant failed to raise the construction over the plot and as such show cause notice under Section 17(3) of the HUDA Act, 1977 was issued vide Memo No.5955 dated 23.2.1982, Memo No.7186 dated 20.8.1985, No.432 dated 27.1.1984, 7525 dated 18.1.1992 and notice under Section 17(4) vide Memo No.250 dated 5.1.1995 for hearing on 14.2.1995. The complainant had appeared in the office of the opposite parties on 14.2.1995 and requested for extension of one month time for depositing the extension fee. However, the complainant failed to deposit the same. Another notice under Section 17(4) was issued vide Memo No.2768 dated 17.6.1998 for hearing on 17.7.1998, and complainant had appeared on the said date i.e. on 17.7.1998 and was heard at length. The plot in question was resumed on 17.7.1998 and the resumption order was sent vide Memo No.4516 dated 29.7.1998. The earnest money was forfeited and the remaining balance amount of Rs.8035/- was sent back to the complainant vide Registered letter Memo No.9221 dated 27.9.2001 thorough cheque No.792430 dated 24.9.2001. However, the



registered letter was received back undelivered. They justified the resumption order dated 29.7.1998 and prayed for dismissal of the complaint.

Both the parties led evidence in support of their respective claims. However, the District Forum did not believe the version of the opposite parties and accepted the complaint by issuing direction to the opposite parties as noticed in the opening Para of this order. Hence, this appeal.

We have heard learned counsel for the parties and also have perused the case file.

Admittedly, the plot in question was allotted to the complainant vide allotment letter No.1975 dated 7.2.1978 Ex.R-2 and the possession of the plot was offered vide letter Ex.R-3 and possession was delivered on 16.3.1982 as is evident from the possession certificate Ex.R-12. The plea of the complainant that at the time of delivery of possession of the plot there was no development work at the spot is without any force for the reason that the complainant had accepted the possession without any protest. There is no nothing on record to prove that the complainant had ever approached the opposite parties with regard to non-completion of the development work. Rather, on the other hand the complainant could not raised construction over the plot for which extension fee was demand by the opposite parties but the same was not deposited by the complainant.

Consequently, the notices Ex.R-4 to Ex.R-9 were issued to the complainant and after giving full opportunity of being heard, the plot in question was resumed vide resumption letter Ex.R-10. After forfeiting 10% of the tentative price of the plot, the balance amount was refunded to the complainant vide letter Ex.R-11 through cheque No.792430, though it was not accepted by the complainant.

The above documents produced on record that the plot in question was rightly resumed by the opposite parties vide resumption letter dated 29.7.1998. The complainant has miserably failed to prove that he ever had raised any protest with regard to the possession of the plot to it. The plea of the complainant that the notices Ex.R-4 to Ex.R-8 were not received by it, is also without any force because there is not an iota of evidence on behalf of the complainant to prove that it had given information to the opposite parties

with regard to any change in the address. More so, notice Ex.R-9 vide which opportunity of hearing was afforded to the complainant also falsify the stand of the complainant.

Even otherwise, the complaint filed by the complainant under the Consumer Protection Act, 1986 is hopelessly barred by time because the plot was resumed on 29.7.1998 and the present complaint was filed on 25.9.2001 i.e. after three years and two months in violation of the provisions of Section 24-A of the Consumer Protection Act, 1986. The complainant did not submit any application before the District Forum for condonation of delay, for not filing the complaint within the stipulated period of 2 years from the date of resumption. The subsequent proceedings, if any, do not extend the period of limitation because the cause of action was complete on 29.7.1998 when the plot was resumed. The District Forum while passing the impugned order has not given due consideration to all these aspects and committed grave error in accepting the complaint.

As a sequel to the above discussion, we find that the impugned order passed by the District Forum is not sustainable.

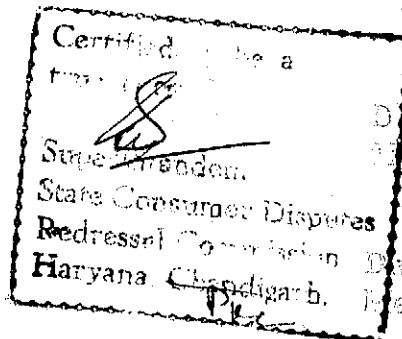
Accordingly, the appeal is accepted, the impugned order is set aside and the complaint is dismissed.

Announced:  
4.3.2009

3895-87  
10/4/09

1. Case No. 1432/02  
2. Date of Disposal 4/3/09  
3. Date of issue of first copy 10/4/09  
4. Copy delivered by Post by Hand 29.4.09  
5. Date of issue of duplicate copy \_\_\_\_\_

Signature with date  
10/4/09



sd/-  
Justice R.S. Madan,  
President.

sd/-  
D. Rekha Sharma,  
Member

sd/-  
Dewan Singh Chauhan,  
Member