

Latest judgments -2

DLF Home Developers Ltd. Known as DLF Universal Ltd and Another
Versus
Capital Greens Flat Buyers Association Etc.
(Supreme Court)

Civil Appeal Nos 3864-3889 of 2020

Decided on December 14, 2020

Legal Point -

!)Whether offer to exit option with interest at 9% would not disentitle the flat purchasers from claiming compensation

!!) Whether builder can invoke force majeure clause under the given facts.

These appeals arise from a judgment of the National Consumer Disputes Redressal Commission dated 3 January 2020 in a batch of consumer complaints. The complaints were instituted by an association representing flat purchasers, called the Capital Greens Flat Buyers Association and by individual flat purchasers against the builder. DLF Home developer

Supreme Court directs to pay compensation for delay in possession to Capital Greens Flat Buyers Association rejecting the plea of Force majeure

Facts

1. That there was a substantial delay on the part of the Developer in handing over possession of the apartments
2. A claim for compensation for delay in handing over possession of the flats was made.

3. The complainants also specifically challenged the recovery of parking and club charges by the developer

Defense by Developer

The Builder in their defense to the complaints contended

- That as a result of force majeure conditions, they were prevented from achieving completion of their contract.
 - (i) Delay in the approval of building plans;
 - (ii) Issuance of stop work orders
- Exit offers were given to the flat buyers on two occasions. When the developer became aware of the fact that there was a delay beyond the contractual period of thirty-six months and the purchasers were offered refunds of the consideration together with interest at the rate of 9% per Annum;
- 45% of the flat buyers in the project have sold away their Apartments
- The flat buyers have the benefit of an appreciation in the Capital value of the apartments purchased;
- The developer has extended the benefit of timely payment and goodwill rebates to the flat purchasers.

NCDR Order

- The OP is not entitled to car parking charges.& club charges. The car parking charges and club charges wherever already paid to the developer shall be refunded to the concerned allottee within three months from the date of order failing which the said charges shall carry interest @ 9% per annum from the date of order, till the date of refund.
- Allottees shall be entitled to early payment rebate and timely payment Rebate which were offered by the developer.

- Pay compensation in the form of simple interest @7% per annum from the expected date for delivery of possession till the date on which the possession was actually offered to the allottees.
- The conveyance deed in favour of the allottees shall be executed within three months from today, subject to payment of outstanding dues by home buyer , if any
- In CC/351/2015 and CC/2047/2016, the developer shall pay Rs.50,000/- as the cost of litigation in each complaint whereas In the other consumer complaints, the developer shall pay Rs.46, 000/- as the cost of litigation in each

Order by the Supreme Court

- Force majeure clause not acceptable on both counts-non approval and direction to stop work. Non approval should have been foreseen by builder when taking up such project. Direction to stop construction by the state was done because of accidents taking place on the site for safety negligence ,this was due to insufficient safety measures and due to builders default
 - Mere offer to exit option with interest at 9% would not disentitle the flat purchasers from claiming compensation
 - Compensation at 6% rate of interest on the money held from the expected date for delivery of possession till the date on which the possession was offered to the allottees.
 - All other orders by National commission are also confirmed .
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