

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No. 2832 OF 2007**

Daulat Singh Rathore ...Appellant(s)

VERSUS

Rajasthan Housing BoardRespondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1) This appeal is filed against the final judgment and order dated 20.02.2006 passed by the Monopolies and Restrictive Trade Practices Commission, New Delhi (hereinafter referred to as “MRTP Commission”) in UTPE No. 207 of 1998 whereby the MRTP Commission disposed of the complaint and discharged the notice of enquiry

holding that the allegation of unfair trade practice against the respondent are not proved.

2) The facts of the case lie in a narrow compass. They, however, need mention infra to appreciate the short issue involved in the appeal.

3) The Respondent herein is a State Housing Board (hereinafter referred to as "the Board"). The Board is constituted for the State of Rajasthan under the Rajasthan Housing Board Act, 1970 (hereinafter referred to as "the Act").

4) Pursuant to the Schemes introduced by the Board for sale of different types of Houses/flats in the city of Jodhpur, the Board invited applications from public at large in the year 1982 for sale of different categories of the houses/flats.

5) The appellant made an application on 27.12.1982 (Annexure-P-1) to the Board for allotment of one flat to him at Jodhpur under a Scheme called, Middle Income Group "B" category.

On 30.05.1983, the appellant deposited a sum of Rs.4,600/- as registration amount and then deposited a sum of Rs.15,000/- on 18.09.1993 being first instalment.

6) Thereafter, there arose disputes between the appellant and the Board for sale of the flat which, in the first instance, led to filing of the petition being Writ Petition No.4707/1993 by the appellant in the High Court of Rajasthan at Jodhpur. By order dated 04.05.1995, the High Court dismissed the writ petition as having rendered infructuous.

7) The appellant then took recourse to two remedies for ventilating his grievance against the Board. He filed a suit being Civil Suit No. 23/2001 in the Court of ADJ(I) at Jodhpur on 02.07.2001 challenging therein the actions of the Board and simultaneously filed a complaint being UTPE No. 207/1998 before the MRTP Commission, New Delhi against the Board.

8) So far as the suit is concerned, it is still pending and so far as the complaint is concerned, it was dismissed by the MRTP Commission by impugned order dated 20.02.2006 giving rise to filing of this appeal by way of special leave by the appellant in this Court. This Court granted leave on 17.05.2007.

9) On 11.08.2016, this Court recorded in the proceeding that the appellant has given a proposal to the Board for reconsideration of his case for allotment of the flat. This Court observed that the Board should look into the appellant's proposal with objectivity and call the appellant personally to resolve the dispute out of the Court. On 19.10.2016, learned counsel for the respondent made a statement that the Board has decided to allot one flat to the appellant and the details of the same would be placed on record within 2 weeks. On 23.03.2017, this Court wanted to find out the prices

of the flats between 2005 to 2010. The Board has accordingly placed on record the details of the prices of the flats.

10) It is in the light of these background facts, the question arises as to what order needs to be passed for the disposal of the appeal.

11) Having heard the learned counsel for the parties and on perusing the record of the case and further keeping in view the nature of the controversy, stand taken by the both parties and lastly, the interim orders passed by this Court on various dates mentioned above, we are of the considered opinion that this appeal can be disposed of finally by passing the following directions.

12) In our opinion, the directions given hereinbelow would balance the equities between the parties and also safeguard their interest in relation to the subject matter of the appeal. The following are the directions:

(i) The Board will allot one flat to the appellant in Jodhpur in Board's Middle Income Group "B" Housing Scheme.

(ii) The appellant will pay the price of the flat selected by him as per the approved Government's price prevalent and in force as on the date of this judgment.

(iii) The Board will adjust a sum of Rs.19,600/- + interest @12% per annum to be calculated on Rs. 19,600/- from the date of its payment by the appellant to the Board till the date of execution of sale deed by the Board in appellant's favour from the total price and after giving adjustment of the said amount, i.e.,(principal amount Rs.19,600/- and interest) the balance would be considered as final price payable by the appellant to the Board for purchase of flat.

(iv) In other words, the appellant will pay a total price of the flat to the Board after deducting Rs.19,600/- + interest to be calculated @ 12 % p.a. on Rs.19,600/-

from the date the said payment was made by the appellant to the Board till the date of execution of sale deed of the flat.

(v) The Board will accordingly work out the price of the flat, as directed above, and inform the appellant.

(vi) If the appellant deposits the entire sale consideration, as directed above, within the time fixed by the Board in the notice sent to the appellant, the Board will execute the sale deed in favour of the appellant and also in favour of appellant's first blood relation jointly along with the appellant, in case, the appellant expresses his wish to allow any of his blood relation to join with him as co-owner in execution of the sale deed. It is because it was stated at the bar that the appellant is now quite aged. This liberty is, therefore, granted to the appellant.

(vii) If the appellant fails to pay the price within the time fixed by the Board then a sum of Rs.19,600/- deposited by the

appellant with the Board shall stand forfeited.

(viii) Let all the formalities, as directed above, be completed within 6 months from the date of receipt of this judgment by the parties under intimation to both as an outer limit to give quietus to this litigation with no claim of any kind surviving against both the parties for future.

13) In view of foregoing directions, we do not consider it necessary to examine the legal issues arising in the case.

14) The appeal stands disposed of finally.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[NAVIN SINHA]

New Delhi;
December 04, 2017