

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, BHIWANI.

CONSUMER COMPLAINT NO. 148 of 2021

DATE OF INSTITUTION: 30.07.2021

DATE OF ORDER: 29.11.2023

Smt. Chanda Gupta wife of Sh. Rajesh Kumar Gupta R/o B-90 Haryana Education Board Campus, Bhiwani, Tehsil and District Bhiwani- Haryana-127021.

.....Complainant.

Versus

Mahira Group, 301 Global Foyer Sector-43, Golf Course Road, Gurugaon (now Gurugram) 122009 through its Director/authorized signatory.

..... Opposite Party.

**COMPLAINT U/S 35 OF CONSUMER PROTECTION ACT, 2019.**

**BEFORE: Mrs. Saroj Bala Bohra, Presiding Member**

**Ms. Shashi Kiran Panwar, Member**

Present:- Ms. Sheela Tanwar, Advocate for complainant.

OP exparte vide order dated 13.01.2023.

**ORDER:**

**Saroj Bala Bohra, Presiding Member:**

1. Brief facts of this case are that complainant booked a flat in sector 63A, Gurugram and remitted a sum of Rs.1,05,000/- as booking money to the OP on 04.08.2020. It has alleged that draw of the flats was scheduled to be conducted in the month of September 2020 but it was done on 10.03.2021, however, name of complainant was not in the list of allottees and thus the said money was to be refunded to the complainant immediately. So, complainant approached the OP through e-mail on 28.03.2021 and also sent all the required documents and was assured to refund the money within 30 days. But the Op not made the payment despite elapse of more than 3 months which, as per complainant, amounts to deficiency in service on part of OP resulting into monetary loss as harassment. Hence, the present complaint has been preferred by complainant seeking directions to OP to pay Rs.1,05,000/- alongwith interest @ 18% per annum from the date of draw, further to pay Rs.1.00 lac as compensation for harassment besides Rs.50,000/- towards litigation expenses. Any other relief, to which this Commission deems fit, may also be awarded.
2. OP appeared through counsel Sh. Bidit Kumar Deka, Advocate on 11.03.2022 and tendered written statement raising preliminary objections qua suppression of material facts and that complainant is not a consumer. On merits, it has admitted that complainant deposited Rs.1,05,000/- as booking amount and the date of draw was 10.03.2021 which is fixed by Senior Town Planner and the same was intimated to the complainant as well as other applicants on 05.03.2021 by e-mail. Complainant was not successful in the said draw of flats. Op has submitted that it intimated the complainant that OP company is giving 50 appointments per day to the customers seeking refund from 01.04.2021. Complainant was also intimated that she would be given 2-3 days advance notice of her appointment when she can visit the office of OP to collect her cheque. It has submitted that the months of March, April, May and June of year 2021 were peak time of Covid-19 pandemic and because of this most of the staff of OP company became infected and the usual operations were disrupted. OP resumed functioning from 01.06.2021 and complainant was given appointment for 15.06.2021 but before this complainant sent a legal notice dated 14.06.2021. However, complainant was asked to provide her account details but she did not provide. As such, there is no deficiency in service on its part and prayed for dismissal of the complaint with costs.
3. In evidence of complainant, affidavit Ex. CW1/A of complainant alongwith documents Annexure C-1 to Annexure C-9 were tendered and closed the evidence on 06.07.2022.
4. We have heard learned counsel for complainant and gone through the record carefully.
5. It is admitted by the OP in its pleadings that Rs.1,05,000/- was deposited by complainant as booking amount for the flat. Further the complainant did not succeed in draw of allotment for flats and the amount was to be returned to the complainant. Thus learned counsel for complainant has argued that the act & conduct of OP amount to deficiency in service as well as unfair trade practice on its part which caused monetary loss besides mental and physical harassment to the complainant. In order to get her amount, complainant got served legal notice (Annexure C-1) upon the OP and also made e-mail and request letter for refund of the deposited amount (Annexures C-3 to C-5) but the OP did not refund the amount. Perusal of record reveals that the OP neither return the deposited amount before filing of this complaint nor during proceedings of this case which show clear intent of OP for not refunding the amount. The complainant to strengthen her case has placed on record her duly sworn affidavit which corroborates the version of the complaint. In such a situation, we are of the view that the OP was negligent, deficient in providing proper services to the complainant as well as has adopted unfair trade practice which dragged the complainant into this unwarranted litigation. So, complainant must have suffered monetary loss as well as mental agony and physical harassment. As such, the complaint is allowed and OP is directed to comply with the following directions within 40 days from the date of passing of this order:-
  - (i) To refund Rs.1,05,000/- (Rs.One lac five thousand) to the complainant alongwith simple interest @ 9% per annum from the date of deposit of the amount till its actual realization.
  - (ii) To pay a sum of Rs.10,000/- (Ten thousand) to the complainant as compensation for harassment.
  - (iii) Also to pay a sum of Rs.55,00/- (Rs.Five thousand five hundred) as litigation expenses.

In case of default, the OP shall liable to pay simple interest @ 12% per annum on all the aforesaid awarded amounts for the period of default. The complaint is allowed accordingly. Certified copies of this order be sent to parties concerned, free of costs, as per rules. File be consigned to the record room, after due compliance.

Announced.

Dated:29.11.2023.

**(Shashi Kiran Panwar)**

Member

**(Saroj Bala Bohra)**

Presiding Member

District Consumer

Disputes Redressal

Commission,Bhiwani

Present:- Ms. Sheela Tanwar, Advocate for complainant.

OP exparte vide order dated 13.01.2023.

Arguments heard. Vide our separate detailed order of even date, the present complaint stands allowed. File be consigned to the record room after due compliance.

Dated: 29.11.2023

Member

Presiding Member,

District Consumer Disputes

Redressal Commission,

Bhiwani.



