

Case No.80/2017

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-II
Udyog Sadan, C-22 & 23, Qutub Institutional Area
(Behind Qutub Hotel), New Delhi- 110016

Case No.80/2017

Vijay Kumar Chauhan
R/o D-85, Sector-49,
Noida, Gautam Budh Nagar,
Uttar Pradesh-201301

....Complainant

Versus

1. ICICI Bank Limited

E-30, Saket,
New Delhi-110017

Also at

S-13, Green Park Extension-II
Uphar Cinema Complex,
New Delhi-110016

....Opposite Party

Date of Institution : 28.02.2017

Date of Order : 08.02.2024

Coram:

Ms. Monika A Srivastava, President

Ms. Kiran Kaushal, Member

Sh. U.K. Tyagi, Member

ORDER

Member: Ms. Kiran Kaushal

1. Succinctly put complainant availed a home loan of Rs.20,30,427/- from M/s ICICI Bank Ltd (hereinafter referred to as OP). Consequently a loan agreement was duly executed between the parties and OP formulated the EMI of Rs.27,834/-p.m. for a period of 10 years.

2. It is stated that as per the agreement OP disbursed the loan amount of Rs.20,00,000/- by cheque dated 26.12.2006 and a sum of Rs.30,4... , was paid through RTGS in the complainant's account on 05.03.2009.

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3. It is next stated that complainant was regularly paying the monthly EMIs on time till December, 2015 but after December, 2015 complainant could not pay the remaining installments on time due to financial difficulty. It is stated that the complainant in August, 2016 visited OP to clear the default installments where it transpired that OP on its own had enhanced the tenure of repayment of loan amount from 10 years to 20 years without the consent and knowledge of the complainant. The complainant confronted OP for arbitrarily changing the tenure and the bank officials told the complainant that they are governed by the RBI guidelines and therefore they cannot re-change the tenure schedule.
4. It is stated that complainant out of the scheduled 120 installments, had already paid 112 installments (amounting to Rs.27,92,731/-) and only 8 installments were left to be paid however, OP enhanced the tenure from 120 months to 325 months and OP was adamant on charging the interest for total 325 months and now the total amount which is to be paid by the complainant is amounting to Rs.18,65,000/-.
5. It is stated that OP is not allowing the complainant to make full and final payment towards the loan amount as it is adamant on charging the interest for a period of 20 years which is absolutely illegal and in violation of the loan agreement.
6. Alleging deficiency in service and unfair trade practice complainant prays for direction to OP to allow the present complaint and to clear the loan amount as per the terms and conditions of loan agreement; to pay Rs.5,00,000/- towards mental pain and agony and to pay Rs.55,000/- towards litigation cost.
7. OP resisted the complaint and filed its written version stating inter alia that complainant availed the loan facility of Rs.20,30,427/- on floating rate of interest. Initially loan tenure was 10 years, however, on the asking of the complainant as per the clause 10 of the agreement the loan tenure was extended for another 10 years as the complainant was unable to pay the EMIs in time. Clause 10 of the agreement is reproduced as under-

"whenever there is an increase in rate of interest, we increase tenure of the loan to our customers, subject to permissible limits, in order to avoid burdening the customers with higher EMIs, the same has been mentioned in the facility agreement duly signed by the customer at the time of disbursement."

8. It is further stated that complainant used to default in making the payment of the EMIs and several of the cheques issued by him had been dishonored. Same is reflected in the statement filed by OP along with the reply. It is stated that the factum of increase of loan tenure was well within the knowledge of the complainant through various letters which were duly sent to the complainant and was received by him.

9. The loan tenure was extended in order to release some burden of higher EMIs from the customer. It is stated that up till 25.07.2017, a sum of Rs.18,85,840/- was the principal amount due towards OP bank. It is stated that as per OP's right OP has charged interest and penal charges for delay in payment of the loan amount which is to be paid by the complainant. It is thus prayed that as the complainant has failed to disclose any deficiency on the part of OP complaint be dismissed with heavy costs being devoid of merit.

10. Evidence and written submissions have been filed on behalf of both the parties. Arguments of Ld. counsels have been heard. Material placed on record is perused.

11. Perusal of the documents placed before us reveal that complainant availed loan facility from OP to the extent of Rs.20,30,427/- on floating rate of interest. As per the agreement between the parties adjustable rate of interest and the repayment scheduled is reproduced as under-

(b) Adjustable Interest of Rate

(i) FR= 10.75% per annum as on the date of this Facility Agreement.

(ii) Until varied by ICICI Bank in terms of this Facility Agreement, the Borrower/s will pay the Adjustable Rate of interest = 11.25 % per annum (i.e FRR \pm margin of 0.5%) plus applicable interest tax or other statutory levies.

(iii) The Borrower/s shall pay PEMII at 11.25% per annum until commencement of the EMI payable on the dates mentioned below plus applicable interest tax or other statutory levies.

(iv) Rest Period

Month

Quarter

(c) Fixed for Three Years and then Floating

For the fixed period of three years interest shall be computed as under (a)/(d) above; once it becomes floating, interest shall be computed as under (b) above.

(3) Repayment schedule:

(a) Term of repayment 120

(b) EMI Rs. 27,834/-

In case of Structured Repayment facility

EMI Rs. _____ /- from _____ moths to _____ month.

EMI Rs. _____ /- from _____ moths to _____ month.

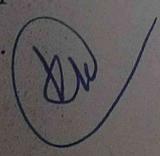
EMI Rs. _____ /- from _____ moths to _____ month.

(c) Total Number of EMIs 120

(d) Date of commencement of EMI 01.01.07

(e) Due date for payment of fist EMI 01.02.07

Provided, on delay or advancement, the date of commencement of EMI shall be corresponding day (to the date specified above) of the month following the months in which disbursement will have been completed. In such case, the Due date of payment of first EMI shall be the corresponding day of the following month to the due date-specified above.

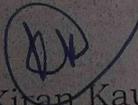


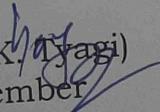
12. It is observed from the loan transaction details from 25.11.2006 to 26.07.2017 in the Loan account's statement of the complainant that the cheques paid towards the EMIs by the complainant got dishonored very frequently. Hence, the cheque bouncing charges and penalty for paying the delayed installments were imposed on the complainant. This Commission is of the view that as per the agreement OP was within its right to penalize and demand cheque bouncing charges from the complainant for making default payments.

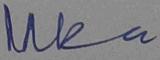
13. As regards the increase of the tenure of installments OP has averred that the complainant was informed vide various letters regarding the same but no proof/evidence has been adduced to this effect. Though as submitted OP with the bonafide intention to decrease the pressure on the complainant had increased the EMIs, OP cannot be allowed to increase the tenure arbitrarily and without informing the complainant.

14. In light of the discussion above it is opined that OP bank is within its right to recover the money from the complainant as per the law with interest and penal charges for delayed payment but OP should not have increased the tenure of EMIs without informing the complainant. Therefore, without going into the interest and penalty we are of the view that complainant be allowed to choose the method of mode of payment. OP bank is found to be deficient in service only on account of having increased the loan tenure to another 10 years without informing the complainant in upward revision of interest and penalty charges. Hence OP is directed to pay Rs.25,000/- towards the deficient services within three months from the date of order failing which OP shall pay Rs.25,000/- @4% p.a till realization.

Parties be provided copy of the judgment as per rules. File consigned to the record room. Order be uploaded on the website.


(Kiran Kaushal)
Member


(U.K. Tyagi)
Member


(Monika A Srivastava)
President