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दैनिक भास्कर

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- If Possession Is Not Given Then Consumers Should Take Action Like This

Your rights in Rasrang: If possession is not given, consumers can take action like this

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The dream of owning a home or plot of land can often turn into a bitter experience when builders delay possession, arbitrarily increase prices, or engage in questionable practices. One such worrying trend is that some builders sometimes sell the property under litigation to someone else. Recently, the National Consumer Disputes Redressal Commission (NCDRC) heard this issue in the Chandrakant Kher case (2025). This decision offers important lessons for consumers.

What was the dispute? Complainant Chandrakant Kher booked a residential plot in the Jaipuria Sunrise Greens project in Ghaziabad in 2006. An agreement to sell was signed in 2012, valuing the plot at ₹38,99,780. In return, the consumer deposited a substantial sum of ₹25,95,814. However, the builder did not provide possession. After serving a notice in 2015, the consumer filed a petition with the Delhi State Commission in 2018, seeking possession and compensation for the delay.

State Commission Order In March 2023, the Delhi State Commission held the builder guilty of deficiency in service. However, instead of granting possession of the plot, the consumer's primary demand, the Commission ordered a refund. The builder was ordered to pay 6% interest on the deposit (9% if not paid within two months), ₹2 lakh for mental agony, and ₹50,000 for litigation costs. The complainant was dissatisfied with this decision, as his primary demand was not a refund, but possession of the plot. Therefore, he filed an appeal in the NCDRC.

The subsequent sale of the plot during the appeal is an example of the malpractices of some builders. In December 2023, the builder sold the same plot to a third party, while the case was still pending in court and the consumer's money was still with the builder. The NCDRC termed this conduct unacceptable. The Commission stated that such a sale violated the Doctrine of Lis Pendens (the principle of non-transfer of title to property during a pending case). This doctrine states that no party can transfer property during a case in a manner that would affect the rights of the other party. The Commission considered this to be unfair trade practice and a clear deficiency in service.

What instructions did the NCDRC give? The NCDRC modified the State Commission's order and directed the builder to offer the consumer an alternative plot of the same area in the same project or area at the same price within three months, provided the buyer pays the remaining amount. Failure to provide such a plot will result in a refund of the entire amount along with 18% interest (if the payment is delayed by more than two months, the interest will be 21%). The order for ₹2 lakh for mental agony and ₹50,000 for litigation costs was upheld. The Commission also noted that the builder had made unfair profits by selling the same plot to a third party at a much higher price, thereby depriving the consumer of his legitimate rights.

What does this mean for consumers? This decision underlines several important principles: **1. Right to possession:** If a buyer has demanded possession, the consumer forum should not convert it into a refund without reasonable cause. **2. Protection against fraud:** The sale of a property during litigation will be considered void under the doctrine of lis pendens. **3. Unfair trade practices:** Builders who profit by selling the same property twice will be

required to pay both penal interest and compensation. **4. Reality-based compensation:** In times of skyrocketing property prices, simply returning the amount with partial interest is not sufficient. The interest and compensation should be such that the consumer's loss is adequately compensated.

(The author is also Secretary, CASC.)