

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 3072 of 2020**  
**[Diary No 9775/2020]**

**Puri Construction Pvt Ltd and Another**

**Appellant(s)**

**Versus**

**Dr Viresh Arora**

**Respondent(s)**

**ORDER**

- 1 Delay condoned.
- 2 This appeal arises from a judgment and order dated 13 January 2020 of the National Consumer Disputes Redressal Commission in Consumer Complaint No 1598 of 2017.
- 3 On 28 December 2013, an agreement was entered into between the appellants and the respondent, under which the respondent agreed to purchase a residential flat for a total consideration of Rs 1.51 crores. Delivery of possession was to take place in forty-eight months. There was a provision for a grace period of six months. The period of forty-eight months expired on 27 December 2017 and the further period of six months came to an end on 28 June 2018. An offer of possession was made to the respondent on 21 January 2019. The respondent moved a consumer complaint before the NCDRC. By the impugned order, the flat buyer has been given an option of

taking possession (without interest and penalty) or to obtain a refund of the purchase consideration with interest at the rate of eight per cent per annum from the dates of deposit.

- 4 On 24 August 2020, when the appeal was taken up, the following order was passed, recording the offer made by the appellant to the respondent:

“1 Mr Krishnan Venugopal, learned senior counsel appearing on behalf of the petitioner submits that the developer is ready and willing to hand over possession of the residential flat which was the subject matter of the agreement. Besides pointing out that the offer for possession was made to the petitioner on 24 December 2018, it has been submitted that the developer is ready and willing to furnish to the respondent a discount of Rs 20 lakhs on the base price besides which no interest or penalty would be charged on the remaining amount which is due and payable.

2 Mr M L Lahoty, learned counsel appearing on behalf of the respondent states that he would seek instructions from the respondent, who is stationed abroad. He states that though until date the respondent has been unwilling to accept possession, in view of the fresh offer which has been made by the developer, he will take instructions in the matter.

3 List the Civil Appeal on 3 September 2020.”

- 5 During the course of the hearing, Mr M L Lahoty, learned counsel appearing on behalf of the respondent submitted that the present rate at which a comparable flat has been sold is Rs 1.04 crores and the developer should sell the flat at the same price. In order to resolve the dispute and settle the matter, Mr Krishnan Venugopal, learned senior counsel stated that the appellants are ready and willing to sell the flat which has been agreed to be sold to the respondent at and for a total consideration of Rs 1.04 crores. Mr Lahoty however informed the Court that his instructions are that the

respondent would be agreeable to accept the aforesaid offer only if interest at the rate of eight per cent is credited on the amount of Rs 75 lakhs, which has been deposited by the respondent with the developer. This is not acceptable to the appellant. Since the negotiations between the parties have not resulted in any settlement, we proceeded to hear the civil appeal.

- 6 The submission of Mr Krishnan Venugopal, learned senior counsel in support of the appeal is that though the NCDRC noted that the developer pleaded *force majeure* on the ground that (i) the construction of the flats could not proceed due to a stay granted by the National Green Tribunal on construction during the winter months; and (ii) demonetization affected the real estate industry resulting in delays in completion, the submission has not been dealt with. The second submission which was urged on behalf of the appellants by Mr Venugopal is that in similar other cases, the NCDRC has condoned the delay of the nature involved in the present case in handing over possession, having regard to the quantum of delay involved.
- 7 Though the NCDRC has adverted to the submissions based on *force majeure*, the submissions have not been dealt with. Hence, we are of the view that it would be appropriate to restore the appeal to the NCDRC for consideration afresh.
- 8 We accordingly allow the appeal and set aside the impugned judgment and order of the NCDRC dated 13 January 2020. Consumer Complaint No 1598 of 2017 shall stand restored to the file of the NCDRC for disposal afresh. The rights and contentions of the parties on the issues involved in the appeal are

kept open to be addressed before the NCDRC. The NCDRC shall on remand endeavor to dispose of the consumer complaint within a period of six months from the date of receipt of a certified copy of this order.

- 9 Pending applications, if any, stand disposed of.

.....J.  
**[Dr Dhananjaya Y Chandrachud]**

.....J.  
**[Indu Malhotra]**

.....J.  
**[K M Joseph]**

New Delhi;  
September 03, 2020  
CKB



3 Pending applications, if any, stand dispose of.

**(CHETAN KUMAR)**

**AR-cum-PS**

**(SAROJ KUMARI GAUR)**

**BRANCH OFFICER**

**(Signed order is placed on the file)**