

Supreme Court of India

Delhi Development Authority vs Surgical Cooperative Industrial ... on 16 August, 1993

Equivalent citations: JT 1993 (5) SC 6, 1993 (3) SCALE 451, 1993 Supp (4) SCC 20

Bench: A Ahmadi, S Mohan, N Venkatachala

ORDER

1. Pursuant to the decision taken by the Ministry of Home Affairs, Government of India on 2nd May, 1961 an Expert Committee was constituted for regulating and controlling the urban development. On the basis of the report of the Expert Committee certain decisions were taken which included one relating to the allotment of land to entrepreneurs desirous of setting up industries. This function was assigned to the Delhi Development Authority. An Advisory Committee was set up to advise the Chief Commissioner in regard to the allotment of plots to industrialists who were required to remove their existing factories from the present locations to the industrial zone. One category of those entitled to allotment at pre-determined rates was a cooperative society. As a general policy the disposal of developed lands was to be by public auction except in the cases where land was required to be allotted at pre-determined rates i.e. rates determined on the basis of cost of acquisition and development plus certain additional charges to be charged on slab basis. On August 24, 1962 the respondents formed into a cooperative society and applied for allotment of land to its members. Out of the 39 members 6 members had already established industrial units while the remaining 33 proposed to start new industries on allotted plots. The scheme prepared was for allotment of plots on the basis of a perpetual lease. On October 1, 1962 the society was informed by the Housing Commissioner that land would be allotted to it at fixed prices admissible to industrial cooperative societies. This was followed by a decision taken on March 18, 1968 that the 6 members would be allotted and at the reserved rate whereas the remaining 33 will be allotted land at commercial rates. Pursuant to the said decision the society was informed that the prices fixed for the 6 existing unit-holders was Rs. 37/- per square meter and for the remaining 33 Rs. 55/- per square meter. Individual offers were forwarded to the members of the society. On February 23, 1970 the society conveyed its acceptance of the terms and conditions of allotment by a letter but subsequent thereto some dispute arose between the members of the society and the Delhi Development Authority as regards the rate at which the allotment should be made; the members insisting on a flat rate of Rs. 20/- per square meter. This request of the society was not accepted by the Delhi Development Authority and the same was conveyed on December 14, 1971 with a directive that the written consent of the members for acceptance of plots on the terms earlier indicated should reach the Delhi Development Authority within three days. The society was also cautioned that the offers would be withdrawn if the consent letters were not received within the stipulated time. Despite the same a fresh offer was made in June 1972 pursuant where to some of the members made the payment. The meeting of the society was called on January 3, 1972 and its decisions were communicated to the Delhi Development Authority but the latter took the stand that since the consent letters were not received within time the offer was treated as closed. Thereupon the society and its members filed a writ petition in the Delhi High Court praying that the Delhi Development Authority should be directed to make the allotment at the pre-determined price. In the counter filed by the Delhi Development Authority the latter contested the claim of the society and its members and contended that plots could not be allotted to all the members at the pre-determined price and that the price of Rs. 377/- and Rs. 55/- per square meter respectively fixed for the two categories of members was

reasonable and since the society had earlier communicated its acceptance to the said terms it was stopped from resiling therefrom. The learned Single Judge in the High Court who heard the petition applying the rule of stopped held that the Delhi Development Authority was bound to allot plots on a perpetual lease basis to the petitioners and the petitioners were bound to pay at Rs. 377- and Rs. 557- per square meter respectively for the said two categories. It further directed that Delhi Development Authority would be entitled to interest on short payment/non-payment at 15% per annum if the payment was not made within three months from the date of the order. The Writ Petition thus partly succeeded but no order was made as to costs.

2. Against the above order the Delhi Development Authority and others filed LPA No. 50 of 1982 which was disposed of on August 12, 1986. The Division Bench confirmed the finding that 6 members who held the industrial units earlier and who were to be re-allocated and re-settled at the site in question were entitled to get plots at a lesser rate whereas the remaining 33 who were to set up new units at the allocated sites were rightly required to pay the higher price. The members were divided into three categories having regard to the fact that some of them had made the payments and others had not. Four out of the six existing unit-holders and ten out of the non-existing new unit-holders had already been allotted plots and they were directed to make payment of the remaining amount with interest as directed by the learned Single Judge and take possession of their plots. In addition thereto there were allotment of plots to one existing unit-holder and nine non-existing unit-holders but they had failed to make payment. As the plots were earmarked for them they were directed to make the payment along with interest and get their plots. So far as the third category is concerned, one existing unit-holder and fourteen non-existing new unit holders failed to make any payment even after the fresh offer was made in June, 1972 and they failed to furnish any information whatsoever. The Division Bench, therefore, held that these persons should not be given the plots at the reduced rates specified in the original offer of 1970. It was further observed that they may be given plots, if available, at the current rates. The Division Bench noted that these persons did not appear to be serious about taking their plots and were, therefore, not entitled to the benefit of the lower rate. Their cases were directed to be placed before the Advisory Committee of the Delhi Development Authority to consider whether they should be given plots and if so at what rates. The appeal was allowed in respect of these fifteen persons. The Advisory Committee has not recommended grant of any plots to these fifteen members and we do not see any reason why we should interfere with the order of the Division Bench in appeal insofar as they are concerned since they were throughout guilty of default. They have preferred an appeal against the order of the Division Bench which we have taken on board by consent but we see no reason to interfere with the order and the consequential refusal to allot plots to them. Their S.L.P. will stand dismissed.

3. Of the remaining two categories we see no difficulty so far as category one comprising four existing unit-holders and ten non-existing new unit-holders are concerned. The Delhi Development Authority's appeal insofar as they are concerned is without merit and the same will stand dismissed.

4. In regard to category two i.e. one existing unit-holder and nine non-existing unit-holders the position is that they failed to make payment within the time allowed and, therefore, they have not availed of the benefit granted to them by the Division Bench. Mr. Arun Jetley the learned counsel for

the Delhi Development Authority contended that plots which were earmarked for them are no more available and the going market price for a plot in that locality is as per the latest auction Rs. 10,756/- per square meter. He, therefore, contended that these ten members must now compete with the others in the open market at the auction if they are still interested in plots. We think that is too high a price to pay for the default in the payment of the price as per the decision of the Division Bench. Since the litigation was pending it was not proper to dispose of the plots earmarked for them during the pendency of these proceedings. No doubt they have defaulted but by the fresh offer of June 1972 when others were given, why not to them. At the rate of 15% interest the amount would be considerably less yet we suggested to the learned counsel for these members to ascertain from their clients if they would be willing to purchase the plots at 50% of the price realised in the last auction. They conveyed their willingness to pay that price i.e. 50% of Rs. 10,756/- per square meter. Mr. Arun Jetley, the learned counsel for the Delhi Development Authority submitted that although he had no instructions from his clients in the matter his clients would abide by any just, reasonable and fair order that this Court would make in the facts and circumstances of the case. As stated earlier we had thought it fair and reasonable to fix the price for these ten members at 50% of Rs. 10,756/- per square meter which they have agreed to pay. We, therefore, partly allow the appeal of the Delhi Development Authority insofar as these ten members are concerned and direct that on their depositing the amount in respect of plots calculated at 50% of Rs. 10,756/- per square meter the Delhi Development Authority will allot them the plots at or near about the site in question. As the total amount to be paid would depend on the area of the plot, we would direct the Delhi Development Authority to communicate the amount which each of these ten members will be required to pay at the above rate and on receipt of such communication the said ten members will make the payment within one month failing which they will forfeit their right to claim the plots allotted to them. Be it noted that no extension of time will be given because this is the third indulgence given to them. The appeals will stand disposed of as above with no order as to costs.