

Didn't get loan because of builder's fault?

Allotment of apartment cannot be cancelled if the buyer is denied a home loan because of the builder's failure to provide relevant documents to the bank

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A majority of people wanting to invest in properties take home loans from banks. To sanction such loans, banks usually require certain documents related to the project for which the loan is being sought. These include approved building plans, sanction of scheme of projects etc. At times, the bank gives in-principal approval for the loan to the buyer on the condition that the buyer submit to it the requisite documents. There are, however, instances when the builders do not share the documents with the buyer in time, because of which, the buyer cannot get the loan sanctioned from the bank, as a result of which he or she cannot pay the balance amount. In such a

scenario, does the builder have the right to cancel the allotment of the buyer? After all, it was the builder who had not handed over the requisite documents to the buyer.

The National Commission had the occasion to deal with such an appeal wherein a buyer's allotment was terminated by the builder due to negligence of the builder (who failed to provide the former with the requisite documents for sanction of home loan).

The buyer had booked two apartments in a project and had approached a bank for a home loan. The bank had given the go-ahead for the loan but said it required documents of sanction of scheme and approved building plans of the project. The builder initially agreed to provide the documents, but later did not do so. Due to this, the bank stopped the disbursement of the loan. Consequently, the buyer could not pay the balance price of the two flats to the builder who unilaterally cancelled the allotment of the buyer.



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The buyer approached the State Consumer Redressal Commission and filed a complaint against the builder for terminating the allotment of the buyer. The State Commission held that the buyer should be entitled to avail the housing loan facility for payment of balance amount towards the flats and directed the builder to hand over copies of the requisite documents within a period of 15 days from the date of passing the order. The State Commission also directed that on receipt of payment of the balance consideration, the

builder had to execute sale deed for the flats booked in favour of the buyer. He (builder) was also told to pay compensation to the buyer for the harassment and mental agony suffered and pay costs for wrongful termination of the apartments booked. The State Commission also held that if the builder failed to pay compensation within two months, the builder would further be liable to pay interest at the rate of 9% per annum on the amount of compensation to be paid to the buyer.

The builder then challenged the order of the State

Commission before the National Commission, which upheld the order of the State Commission, observing that it had rightly concluded that as per the facts and circumstances of the case, the builder could not have illegally terminated the allotment and consequently dismissed the appeal of the builder.

Even the new legislation enacted recently, the Real Estate (Regulation and Development) Act, 2016, requires the builders to submit documents to the competent authority at the time of making application for registration of the real estate project,

such as copy of approvals, commencement certificate, sanctioned plan, layout plan and specifications of the proposed project etc. The chances of the builder not providing the requisite documents to the buyer on time are likely to be further reduced now.

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