

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**FIRST APPEAL NO. 867 OF 2020**

(Against the Order dated 28/01/2020 in Complaint No. 748/2019 of the State Commission Punjab)

1. TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING SOCIETY LTD. AND ANOTHER  
THE TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING SOCIETY LTD. REGD. OFFICE SCO NO. 545, SECTOR 70, MOHALI.  
S.A.S NAGAR  
PUNJAB

2. PRESIDENT, THE TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING SOCIETY LTD,  
REGISTERED OFFICE AT SCO 545, SECTOR 70,  
MOHALI  
PUNJAB

.....Appellant(s)

Versus

1. AMIT MAHAJAN  
AMIT MAHAJAN S/O SH. RAMESH CHANDER, R/O HOUSE NO. 3073, SECTOR 20-D, CHANDIGARH.  
CHANDIGARH  
CHANDIGARH

.....Respondent(s)

**FIRST APPEAL NO. 689 OF 2021**

(Against the Order dated 20/04/2021 in Complaint No. 918/2019 of the State Commission Punjab)

1. TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING SOCIETY LTD.  
SCO NO.545, SECTOR-70, MOHALI,PUNJAB

.....Appellant(s)

Versus

1. LAL CHAND & 2 ORS.  
S/O SH. RAM CHAND, R/O HOUSE NO.1629,HIG, GROUND FLOOR, SECTOR-70, MOHALI, PUNJAB  
2. MEET INDER SINGH  
PRESIDENT OF THE TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING SOCIETY LTD.SCO-545, SECTOR-70, MOHALI,PUNJAB  
3. ARVINDE JAGGA  
GENERAL SECRETARY OF THE TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING SOCIETY LTD.SCO-545, SECTOR-70, MOHALI,PUNJAB

.....Respondent(s)

**FIRST APPEAL NO. 808 OF 2021**

(Against the Order dated 20/04/2021 in Complaint No. 918/2019 of the State Commission Punjab)

1. LAL CHAND

.....Appellant(s)

S/O. MR RAM CHND R/O. H NO 1629 (HIG) GROUND  
FLOOR, SECTOR 70  
MOHALI  
PUNJAB

Versus

1. TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING  
SOCIETY LTD. & 2 ORS.

SCO 545, SECTOR 70

MOHLI

2. MEET INDER SINGH

PRESIDENT OF THE TRICITY MEDIA CO OPERATIVE  
HOUSE BUILDING SOCIETY LTD. SCO 545, SECTOR 70

MOHLI

3. ARVIND JAGGA , GENERAL SECRETARY OF THE  
TRICITY MEDIA CO OPERATIVE HOUSE BUILDING  
SOIETY LTD

SCO 545, SECTOR 70

MOHALI

.....Respondent(s)

**FIRST APPEAL NO. 868 OF 2020**

(Against the Order dated 19/02/2020 in Complaint No. 870/2019 of the State Commission  
Punjab)

1. TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING  
SOCIETY LTD. AND OTHERS

THE TRICITY MEDIA CO-OPERATIVE HOUSE BUILDING  
SOCIETY LTD. REGD. OFFICE SCO NO. 545, SECTOR 70,  
MOHALI.

S.A.S NAGAR

PUNJAB

.....Appellant(s)

Versus

1. KULWINDER KAUR

KULWINDER KAUR W/O MR. IQBAL JEET SINGH, R/O H.  
NO. 382-B, SECTOR 43-A CHANDIGARH.

CHANDIGARH

CHANDIGARH

.....Respondent(s)

**BEFORE:**

**HON'BLE MR. JUSTICE RAM SURAT RAM MAURYA,PRESIDING  
MEMBER**

**HON'BLE BHARATKUMAR PANDYA,MEMBER**

FOR THE APPELLANT :

**Dated : 09 July 2024**

**ORDER**

For Tricity Media Cooperative : Mr. D. V. Sharma, Sr. Advocate

House Building Society Limited : Mr. Vikas Kuthiala, Advocate

For Amit Mahajan : Mr. Vivek Gupta, Advocate  
: Mr. Deeraj Mahajan, Advocate  
For Kuwinder Singh : Mr. Ritesh Khare, Advocate  
For Lal Chand : Mr. Praveer Singh, Advocate

**Pronounced on: 09.07.2024**

## **JUDGEMENT**

1. Heard Mr. D. V. Sharma, Sr. Advocate assisted by Mr. Vikas Kuthiala, Advocate, for the Tricity Media Cooperative House Building Society Limited, Mr. Vivek Gupta, Advocate, for Amit Mahajan, Mr. Ritesh Khare, Advocate, for Kulwinder Singh and Mr. Praveer Singh, Advocate, for Lal Chand.
2. The Tricity Media Cooperative House Building Society Limited has filed FA/867/2020 (against the order dated 28.01.2020 passed in CC/748/2019), FA/868/2020 (against the order dated 19.02.2020 passed in CC/870/2019) and FA/689/2021 (against the order dated 20.04.2021 passed in CC/918/2019) of State Consumer Disputes Redressal Commission, Punjab, allowing the complaints and directing the appellant society to deliver possession of the plots allotted to the complainants and pay delay compensation or in alternative, to refund their money with interest @12% per annum, from the date of deposit till the date of payment, and compensation for mental agony and harassment. Lal Chand has filed FA/808/2021 (against the order dated 20.04.2021 passed in CC/918/2019) as his payments vide receipts EX C-3, EX C-5, EX C-8 and EX C-10 have been disbelieved and he also prayed for additional litigation cost.
3. The office has reported that FA/867/2020 is 267 days time barred. The appellant has filed IA/4597/2021, for condoning the delay in filing the appeal. The office has reported that FA/868/2020 is 273 days time barred. No application for condonation of delay has been filed in FA/868/2020. The office has reported that FA/689/2021 is 28 days time barred. The appellant has filed IA (not numbered), for condoning the delay in filing the appeal. The office has reported that FA/808/2021 is 158 days time barred. The appellant has not filed any application, for condoning the delay in filing FA/808/2021.

As Supreme Court in Suo Moto Writ Petition No.3 of 2020, waived the limitation from 15.03.2020 till 29.05.2022 due to pandemic Covid-19 as such all the appeals are treated as filed within limitation.

4. The Tricity Media Cooperative House Building Society Limited (the society) was a cooperative housing society, registered under the Punjab Cooperative Societies Act, 1961, basically formed by media professionals for the purposes of providing developed residential plot to its members in Mohali. The society obtained 25 acres land in Sector 113, Mohali for developing residential plots of the sizes of 200 sq. yards, 300 sq. yards and 500 sq. yards. Tentative cost of developed plot was fixed at @Rs.9000/- per sq. yard. However, final cost had to be determined after obtaining permission for change of land use. At initial stage, the members were required to deposit 10% of the tentative cost of their plot by 25.01.2011, 20%

by 25.02.2011, 30% by 25.03.2011 and 40% by 25.05.2011. Allotment of the plot in each category had to be made by lottery draw, after development. The vintage plot had to be charges slightly higher rate than the other plots. It was decided that till May, 2011, permission for 'change of land use' would be obtained and development process would be started.

5. Amit Mahajan filed CC/748/2019 for directing the society to (i) handover possession of a developed residential plot of 200 square yard, in Sector 113, SAS Nagar, Mohali; or in alternative (ii) refund his money with interest @18% per annum from the date of respective deposit till the date of refund; (iii) pay Rs.300000/- as litigation costs; and (iv) any other relief, which is deemed fit in the facts of the case. The complainant stated that he became member of the society by depositing Rs.2000/- as processing charges and Rs.2510/- as share money on 24.01.2011. The complainant applied for a plot of 200 sq. yard and deposited 10% tentative cost i.e. Rs.180000/- on 24.01.2011. A receipt of Rs.182510 was issued on 15.03.2011. As per demands, the complainant further deposited Rs.420000/- on 25.05.2011, Rs.300000/- on 13.07.2011, Rs.300000/- on 16.08.2011, Rs.300000/- on 10.09.2011, Rs.300000/- on 31.10.2011, Rs.200000/- on 20.11.2011, Rs.360000/- on 09.07.2013 and Rs.100000/- on 15.12.2014 (total Rs.2462510/-). The complainant and his brother Akshey Mahajan repeatedly visited the office of the society and inquired about the date of possession but all the time some vague information used to be given. Greater Mohali Area Development Authority (GMADA) vide letter No.4317 dated 16.12.2011 granted permission for 'change of land use'. The society is not proceeding towards development of the residential plot on the spot inasmuch as neither development plan has been approved by statutory authorities nor other requisite approvals were obtained. The complainant gave legal notice dated 06.03.2018, calling upon the society to deliver possession of the developed plot within 15 days of the service of the notice or to return his money with interest. After notice, the complainant and his brother went in the office of the society, who assured that possession would be delivered within a short time. After expiry of some time, when the complainant again went to the office of the society then it floated a new option, contrary to the previous plan. The complainant was asked to sign the "Option Form". The complainant gave another legal notice dated 23.09.2018, calling upon the society to deliver possession of the developed plot within 7 days of the service of the notice or to return his money with interest. But, the society did not respond, then this complaint was filed 04.10.2019.

6. Mrs. Kulwinder Kaur filed CC/870/2019 for directing the society to (i) handover possession of a developed residential plot of 250 square yard, in Sector 113, SAS Nagar, Mohali and pay delay compensation in the form of interest @12% per annum on her deposit from June, 2013 till the date of possession; or in alternative (ii) refund her money with interest @18% per annum from the date of respective deposit till the date of refund; (iii) pay Rs.500000/- as compensation for mental agony and harassment; (iv) pay Rs.55000/- as litigation costs; and (v) any other relief, which is deemed fit in the facts of the case. The complainant stated that she became member of the society by depositing Rs.2000/- as processing charges and Rs.2510/- as share money on 25.03.2011. The complainant applied for a plot of 250 sq. yard and deposited Rs.225000/- on 15.03.2011, Rs.150000/- on 25.05.2011, Rs.350000/- on 02.07.2011, Rs.250000/- on 03.08.2011, Rs.150000/- on 14.10.2011, Rs.150000/- on 18.11.2011, Rs.175000/- on 03.12.2011, Rs.250000/- on 08.02.2012, Rs.250000/- on 08.02.2012, Rs.50000/- on 08.02.2012, Rs.250000/- on

23.04.2012, Rs.100000/- on 24.05.2012, Rs.100000/- on 24.05.2012 and Rs.250000/- on 14.09.2013 (total Rs.2700000/-). The society held meeting with the complainant on 26.06.2011 and informed that possession would be given by June, 2013. Greater Mohali Area Development Authority (GMADA) vide letter No.4317 dated 16.12.2011 granted permission for 'change of land use'. The society, vide letter dated 09.07.2014, informed that GMADA has granted development licence on 07.07.2014. The society is not proceeding towards development of the residential plot on the spot inasmuch as neither development plan has been approved by statutory authorities nor other requisite approvals were obtained. The complainant gave legal notice dated 29.08.2019, calling upon the society to deliver possession of the developed plot within 7 days of the service of the notice or to return her money with interest. In spite of service of notice, the society did not respond, then this complaint was filed 07.11.2019.

7. Lal Chand filed CC/918/2019 for directing the society to (i) handover possession of a developed residential plot of 200 square yard, in Sector 113, SAS Nagar, Mohali and pay delay compensation in the form of interest @12% per annum on his deposit from December, 2013 till the date of possession; or in alternative (ii) refund his money with interest @18% per annum from the date of respective deposit till the date of refund; (iii) pay Rs.500000/- as compensation for mental agony and harassment; (iv) pay Rs.55000/- as litigation costs; and (v) any other relief, which is deemed fit in the facts of the case. The complainant stated that he became member of the society by depositing Rs.2000/- as processing charges and Rs.2510/- as share money on 10.03.2012. The complainant applied for a plot of 200 sq. yard and deposited Rs.300000/- on 10.03.2012, Rs.220000/- on 12.03.2012, Rs.500000/- on 21.04.2012, Rs.320000/- on 28.04.2012, Rs.760000/- on 30.04.2012, Rs.300000/- on 26.05.2012, Rs.100000/- on 21.07.2012 and Rs.40000/- on 10.12.2013 (total Rs.2542510/-). The society, vide letter dated 29.10.2012 and informed that Greater Mohali Area Development Authority (GMADA) vide letter No.4317 dated 16.12.2011 granted permission for 'change of land use', granted development licence on 17.07.2012 and layout plan had been submitted for its approval. In the meeting dated 14.07.2013, the society informed that layout plan would be approved till November, 2013. The society, vide letter dated 02.07.2013, informed that balance amount of Rs.40000/- had to be paid by the complainant, which was deposited on 10.12.2013. The society, vide letter dated 01.11.2014, informed that GMADA had issued development licence on 07.07.2014. The society, vide letter dated 01.11.2014 informed that first phase development had been started. The society earlier assured the complainant that possession would be given by June, 2013. The society is not proceeding towards development of the residential plot on the spot inasmuch as neither development plan has been approved by statutory authorities nor other requisite approvals were obtained. The complainant gave legal notice dated 07.09.2019, calling upon the society to return his money with interest. In spite of service of notice, the society did not respond, then the complaint was filed 20.12.2019.

8. The society filed its written replies and contested the complaints. The society admitted that the complainants were members and share-holders in the society, their applications for allotment of plots and deposit of some of amount and disputed some of the receipts, relating to deposit of the amount, filed along with the complaints. The society stated that it has been formed with solo motive of betterment of its members and any selfless interest on any individual. There are more than 300 members in the society. It has been denied that the

complainant was ever asked to fill up "Option Form". The complainants are share-holders in society and not a 'consumer' of the society and the complaints are not maintainable. The society has given contract to develop the plotted colony to the Geetu Construction Private Limited in the year 2010-2011 with the approval of the members. There was no deficiency in service on the part of the society. Preliminary objection that the complaints are time barred, is raised.

9. State Commission, after hearing the parties, by the impugned judgments held that the society is a 'co-operative housing society' and has been formed to provide a residential plot to its member in the developed colony, for which, the land has been acquired in Sector 112, Mohali. The complainants became members of the society and booked plot of different sizes. As per demand, the complainants deposited consideration of the plots in the year 2011-2013. About 9 years have expired but possession has not been delivered. The remedy under Consumer Protection Act, is in addition to any other remedy as such the complaints are maintainable. Cause of action is continuing cause of action and the complaints are not time barred. The society is under obligation to provide developed plots to its members from whom it had realised consideration. In the case of Lal Chand some of the receipts have been disbelieved. On these findings the complaints are allowed and order as stated above have been passed. Hence these appeals have been filed. These appeals raise common questions to be determined, it were consolidated and heard together.

10. The counsel for the society submitted that in order to promote cooperative movement, The Punjab Cooperative Societies Act, 1961 (for short the Act) was enacted. A registered cooperative is a corporate body under Section 30 of the Act. Under Section 23 of the Act, the Final Authority in a cooperative society is its General Body, who has right to elect its Managing Committee under Section 26 of the Act. Any dispute arising between the member and the cooperative society has to be referred to the Registrar under Section 55 of the Act, whose decision is final under Section 55(3) of the Act. Jurisdiction of any other court is barred under Section 82 of the Act. The Managing Committee of the society in its meeting dated 06.05.2011 decided to give contract to Geetu Construction Private Limited for development of the plotted colony, which was approved General Body of the society in its meeting dated 26.06.2011, vide Resolution No.5. Thereafter the society gave contract to develop the plotted colony to the Geetu Construction Private Limited. If the development is delayed then, the society cannot be sued for deficiency in service. The consumer complaints are not maintainable. He relied upon the Supreme Court in **The Tata Engineering and Locomotive Company Limited Vs. The State of Bihar, AIR 1965 SC 40** and **Daman Singh Vs. State of Punjab, AIR 1985 SC 973**, holding after incorporation, its member has no independent right.

11. We have considered the arguments of the counsel for the parties and examined the record. Similar provisions of Karnataka Cooperative Societies Act came for consideration before in **State of Karnataka v. Vishwabharathi House Building Coop. Society, (2003) 2 SCC 412**, Supreme Court held that by reason of the provisions of Section 3 of the Consumer Protection Act, it is evident that remedies provided thereunder are not in derogation of those provided under other laws. The said Act supplements and not supplants the jurisdiction of the civil courts or other statutory authorities. In **Secy., Thirumurugan Coop. Agricultural Credit Society v. M. Lalitha, (2004) 1 SCC 305**, held that the provisions of the 1986 Act, as already made clear above, apply in addition to the other

provisions available under other enactments. It follows that the remedies available under the 1986 Act for redressal of disputes are in addition to the available remedies under the Act. Under the 1986 Act we have to consider as regards the additional jurisdiction conferred on the forums and not their exclusion. The remedies that are available to an aggrieved party under the 1986 Act are wider. For instance, in addition to granting a specific relief the forums under the 1986 Act have jurisdiction to award compensation for the mental agony, suffering etc. which possibly could not be given under the Act in relation to dispute under Section 90 of the Act. Merely because the rights and liabilities are created between the members and the management of the society under the Act and forums are provided, it cannot take away or exclude the jurisdiction conferred on the forums under the 1986 Act expressly and intentionally to serve a definite cause in terms of the objects and reasons of the Act, reference to which is already made above. If the argument of the learned counsel for the appellant is accepted, it leads to taking away the additional remedies and forums expressly provided under the 1986 Act, which is not acceptable. In **Orissa Coop. Housing Corpn. Ltd. v. K.S. Sudarshan, (2016) 16 SCC 501**, held that at the outset, it is fairly pointed out by the learned counsel for the appellant that the question of jurisdiction of the Consumer Fora to entertain and try complaints under the Consumer Protection Act, 1986 (for short “the Act”) when there is a bar under the Cooperative Societies Act to the jurisdiction of the civil courts to entertain any dispute between the cooperative society and its members, is no more res integra. In **Thirumurugan Coop. Agricultural Credit Society v. M. Lalitha [Thirumurugan Coop. Agricultural Credit Society v. M. Lalitha, (2004) 1 SCC 305]**, while dealing with a similar issue with reference to Section 90 of the Tamil Nadu Cooperative Societies Act vis-à-vis the jurisdiction of the Consumer Forum under the Act it has been held by this Court that the remedy available to an aggrieved party under the Act being much wider in its scope, Section 90 of the Tamil Nadu Cooperative Societies Act does not oust the jurisdiction of the Consumer Forum to adjudicate upon disputes between the members and the Cooperative Society under the said Act.

**12.** State Commission, held that the society is a ‘co-operative housing society’ and has been formed to provide a residential plot to its member in the developed colony, for which, the land has been acquired in Sector 112, Mohali, in the year 2011. The complainants became members of the society and booked plot of different sizes. As per demand, the complainants deposited consideration of the plots in the year 2011-2013. About 9 years have expired but possession has not been delivered. The appellant failed to point out any illegality in findings of the State Commission in this respect.

**13.** Constitution Bench of Supreme Court in **S M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das, (2020) 1 SCC 1**, held that a continuing wrong arises where there is an obligation imposed by law, agreement or otherwise to continue to act or to desist from acting in a particular manner. The breach of such an obligation extends beyond a single completed act or omission. The breach is of a continuing nature, giving rise to a legal injury which assumes the nature of a continuing wrong. For a continuing wrong to arise, there must in the first place be a wrong which is actionable because in the absence of a wrong, there can be no continuing wrong. It is when there is a wrong that a further line of enquiry of whether there is a continuing wrong would arise. Without a wrong there cannot be a continuing wrong. A wrong postulates a breach of an obligation imposed on an individual, where positive or negative, to act or desist from acting in a particular manner. The obligation on one individual

finds a corresponding reflection of a right which inheres in another. A continuing wrong postulates a breach of a continuing duty or a breach of an obligation which is of a continuing nature. If a duty continues from day to day, the non-performance of that duty from day to day is a continuing wrong.”

Hence, in evaluating whether there is a continuing wrong within the meaning of Section 23, the mere fact that the effect of the injury caused has continued, is not sufficient to constitute it as a continuing wrong. For instance, when the wrong is complete as a result of the act or omission which is complained of, no continuing wrong arises even though the effect or damage that is sustained may enure in the future. What makes a wrong, a wrong of a continuing nature is the breach of a duty which has not ceased but which continues to subsist. The breach of such a duty creates a continuing wrong and hence a defence to a plea of limitation.

Supreme Court in the cases of **Lata Construction Vs. Ramesh Chandra Ramaniklal Shah, (2000) 1 SCC 586**, **Meerut Development Authority Vs. Mukesh Kumar Gupta, IV (2012) C.P.J. 12 (SC)** and **Samruddhi Co-operative House Society Limited Vs. Mumbai Mahalaxmi Construction Pvt. Ltd., AIR 2022 SC428**, held that if the developer fails to perform its obligation as per agreement, then it is a continuing cause of action.

**14.** However, State Commission has awarded delay compensation in the form of interest @12% per annum on the deposit of the complainants, which is on higher side. Supreme Court, in **DLF Home Developers Ltd. Vs. Capital Green Flat Buyer’s Association, (2021) 5 SCC 537**, held that 6% interest on the deposit of home buyer is just delay compensation. Similarly, in case of refund, also State Commission has awarded 12% per annum interest. In **Experion Developers (P) Ltd. Vs. Sushma Ashok Shiroor, 2022 SCC OnLine SC 416**, held that in case of refund interest @9% per annum is just compensation.

**15.** State Commission in the judgment dated 20.04.2021, disbelieved the receipts EX C-3, EX C-5, EX C-8 and EX C-10 filed by Lal Chand. These receipts do not match with other receipts of the society, which are on printed proforma having receipt numbers. The reasons given by State Commission for disbelieving these receipts are valid and no interference is required.

**O R D E R**

In view of the aforesaid discussion, FA/867/2020, FA/868/2020 and FA/689/2021 are partly allowed. The orders of State Consumer Disputes Redressal Commission, Punjab, are modified to the extent that delay compensation will be in the form of interest @6% per annum on the deposit of the complainants and in case of refund interest @9% per annum of the deposit of the complainants. Rest of the directions are upheld. FA/808/2021 is dismissed.

.....J  
**RAM SURAT RAM MAURYA**  
**PRESIDING MEMBER**



**BHARATKUMAR PANDYA**  
**MEMBER**