

# Welfare associations also have the right to complain against deficient services

There should be no restrictions on the nature of complaint filed by a recognised consumer association against a builder, says consumer forum

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In an earlier column, we had discussed the relevance of 'commercial purpose' under the Consumer Protection Act, 1986, to determine whether an aggrieved party is a 'consumer' and is entitled to take seek help through the dispute resolution mechanism as provided under the Act. The Act provides that any consumer dispute may be brought before the appropriate consumer disputes redressal agency, namely, the district forum, the state commissions, and the National Consumer Disputes Redressal Commission by a consumer in case of deficiency or defects in goods and services provided or agreed to be provided to them.

The Act makes it abundantly clear that those who can file a complaint before an appropri-

ate consumer dispute redressal forum/commission are: a (i) consumer (ii) a recognised consumer association (iii) the Central Government or any state government (iv) one or more consumers where there are numerous consumers having the same interest and (v) in case of death of a consumer, his or her legal heir or representative.

A recent case which came for the consideration of the National Consumer Disputes Redressal Commission was in the matter of Lotus Panache Welfare Association versus Granite Gate Properties Private Limited and four others.

One of the grievances of the complainant society was that the opposite party after receiving 90% of the total consideration of the apartment had discontinued the construction of the project and diverted the funds collected from the apartment buyers to other projects launched under a different brand name. Although the project was to be completed in 2013, the said date

was unilaterally extended. The complainant society on behalf of the apartment buyers prayed to the Commission for various reliefs to be given to them.

However, the opposite party filed an application seeking rejection and dismissal of the complaint, saying a voluntary consumer organisation could only seek relief which was general in nature. A society which had no privity (relationship recognised by law) of contract with them, cannot claim relief of the nature sought in the complaint. It was also stated in the reply that some members of the complainant

society benefit come of even though they might not be consumers on account of having made speculative investments.

It was also alleged in the application that there were some members who had not made timely payments to the opposite party.

The Commission, however, observed on perusal of the relevant provision of the Act that there were no restrictions on the nature of complaint filed by a recognised consumer association. Even an individual case of deficiency in service can be

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taken up by a recognised consumer association by way of a complaint before a consumer forum.

The very fact that the Act permits such an association to file a complaint even on behalf of a consumer who is not its member clearly indicates that such an association has the same rights as a consumer with complaints against deficient or defective services.

The Commission also opined that, in the present case, if the reliefs claimed were unconnected to each other being founded on different causes of action, there could be valid objection

to the maintainability of the complaint on the ground of mis-joinder of the causes of action. But, where the reliefs claimed were of the same nature and against the same person, such an association was competent to file a complaint for and on behalf of all the persons approaching the association in this regard.

The Commission observed that the reliefs claimed by the complainant association were common in nature since they would give identical benefits to a number of apartment buyers who had booked apart-

ments in the Lotus Panache project of the opposite party and were aggrieved on account of the delay in completion of the construction and other deficiencies alleged in the complaint. Therefore, the complaint by the recognised consumer association was maintainable in respect of the reliefs sought in the complaint.

The Commission, therefore, found no merit in the application filed by the opposite party and dismissed the same.

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