
(2014) 05 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

Consumer Welfare Association

APPELLANT

Vs

M/S. Webb Hill Resort Corporation

RESPONDENT

Date of Decision : 13-05-2014

Acts Referred:

Citation : 2014 0 NCDRC 268 : 2014 2 CPJ 658

Hon'ble Judges : AJIT BHARIHOKE , SURESH CHANDRA J.

Advocate : A.M.MASCARENHAS , S.K.PATTJOSHI , VIKAS NAUTIYAL

Judgement

1. THE above noted complainants have filed the present consumer complaint alleging deficiency in service and adoption of unfair trade practice by the opposite party in respect of handing over the possession of bungalow No.A/3 admeasuring 636 sq. ft. located in Surveyor No.17/3B and 18/4B of villate Metgutad, Tal. Mahabaleshwar, District Satara by stipulated period or till date. For the purpose of pecuniary jurisdiction the complainants have valued the complaint at Rs.1,27,60,000/ -.

2. THE opposite party in its written statement apart from the other pleas has taken a preliminary objection that complaint is not maintainable before the National Commission because the value of the relief claimed is much below the pecuniary jurisdiction of this Commission. Learned counsel for the opposite party has submitted that the complainants with a view to short circuit the hierarchy of District Fora has inflated the jurisdictional value of the complaint. It is argued that as per the agreement dated 6.1.1990 between the parties the value of the subject bungalow is Rs.3,50,000/ - and as per the valuation report submitted by the complainant in support of the complaint, the market value of bungalow is estimated to be Rs.24,00,000/ -. Therefore, by no stretch of imagination this complaint could have been filed in the National Commission. Learned counsel for the complainants on the contrary has submitted that the complainant has rightly valued the subject complaint at Rs.1,27,60,000/ -. In support of this contention, he has referred to the inspection -cum -valuation report prepared by M/s Doshi & Co. annexed to the complaint.

3. WE have considered the rival contentions and perused the record. Undisputedly the parties entered into an agreement of sale of the subject bungalow on 6.1.1990. As per the agreement the estimated value of the bungalow to be constructed and provided by the opposite party was Rs.3,50,000/- . No doubt almost 24 years have gone by, therefore, the cost of the property has escalated. The question is what is the present market value of the bungalow in question. In this regard, the inspection -cum valuation report dated 27.4.2013 by M/s Doshi & Co., Chartered Engineers & Surveyors assumes importance. On perusal of the report we find that the value has estimated the value at Rs.1,27,60,000/- . The concluding remarks of the valuation report which are relevant, therefore, are reproduced as under: ""CONCLUDING REMARKS: Based on the above information, location and size of the property (Bungalow A/3 and appurtenant land alongwith common areas and facilities (Ex. G and H of the Agreement) located in Webb Hill Resort (renamed Swiss Country Resort) the market value of this property is worked out as under: i) Bungalow (G+1) 60 SM @ 40,000 Rs.24,00,000 "" ii) Surrounding Plot and Facilities 370 SM @ 28,000 Rs.1,03,60,000 TOTAL VALUE Rs.127,60,000 (Rupees One Crore Twenty Seven Lakh Sixty Thousand only)

4. ON perusal of the photocopy of the agreement for sale filed alongwith the complaint it is clear that the opposite party had agreed to develop the project, construct the bungalow and deliver its possession to the complainant in consideration of Rs.3,50,000/- . The valuer has arrived at the figure of Rs.1,27,60,000/- as estimated value of the bungalow constructed in 60 sq. mt. at the rate of Rs.40,000/- per sq. mt. at Rs.24,00,000/- . Besides the aforesaid value he has added the value of surrounding plot and facilities at Rs.1,03,60,000/- . There is no justification in adding the figure of Rs.1,03,60,000/- to the value of the relief claim by the complainants particularly when the agreement with the opposite party was only in respect of bungalow constructed in 60 sq. mt. Thus, it is obvious that this is a clear case of inflating the value of relief with a view to bring this complaint within the pecuniary jurisdiction of this Commission which is not permissible under law. Thus, in our considered opinion and even as per valuation report the value of the relief sought in the complaint is not more than Rs.24 Lakhs. Section 21 (a) of the Consumer Protection Act, 1986 provides that National Commission shall have jurisdiction to entertain complaint where the value of the goods/services and compensation, if any, exceeds rupees one crore. Therefore, this being the case filed with the inflated jurisdictional value does fall within the pecuniary original jurisdiction of the National Commission. Complaint is, therefore, returned with liberty to the complainant to approach the Fora having pecuniary jurisdiction within one month. Consumer complaint is disposed of accordingly.