

(1996) 08 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

DESHBIR VERMA

APPELLANT

Vs

HAMIRPUR CO-OPERATIVE HOUSE BUILDING SOCIETY LTD.

RESPONDENT

Date of Decision : 21-08-1996

Acts Referred:

Citation : 1996 2 CLT 534 : 1996 2 CPC 238 : 1996 3 CPJ 165

Hon'ble Judges : P.N.Nag , I.D.Bali , Krishana Tandon J.

Final Decision : Order set aside

Judgement

1. THIS appeal is directed against the order of the District Forum, Hamirpur dated 8.10.1993, whereby the complaint of the appellant/ complainant has been dismissed in limine.

2. IN the complaint, the complainant has stated that he became a member of the Hamirpur Co-operative House Building Society and he has paid membership fee and substantial amount for the flat constructed by the respondents and possession thereof has also been delivered to him. After the delivery of the possession to the appellant, the appellant has found and consequently informed the respondents that the construction raised by them is of sub-standard quality. It is not in consonance with the specifications given out by the respondents. IN the complaint, it has been prayed that either the money paid by him for the flat should be returned or damages be awarded to him. The District Forum has dismissed the complaint on the ground that the complicated questions of facts are involved in the case and that it cannot enquire whether the house allotted to him has been in accordance with the specifications, nor the fraud on the part of the respondents can be investigated by it as it is not a proper Forum to investigate the matter. To our mind, finding of the District Forum is patently illegal and we are unable to agree to this reasoning given by the District Forum. The case set up by the appellant/complainant in the present appeal is that the flat delivered to him has not been constructed according to the specifications and that the construction raised is of sub-standard quality. On the basis of these allegations, if proved, the complainant is certainly entitled to get compensation

for loss or injury suffered by him due to negligence of the opposite party under Section 14 Clause (d) of the Consumer Protection Act, 1986. He can also ask for the removal of defects in services under Section 14 Clause (d) of the Act *ibid*. This, of course, requires evidence by both the parties.

We are of the firm view that the District Forum should not have dismissed the complaint in limine and issued a Notice and tried the case and after trial, he could have come to any finding, but it was premature to arrive at the conclusions he has arrived at. The order of the District Forum is, therefore, set aside and he is directed to decide the matter in accordance with law.

3. NO orders as to costs. Order set aside.