

(2017) 04 NCDRC CK 0016

In the National Consumer Disputes Redressal Commission

Case No : 806 of 2017

MANJIT GUPTA

APPELLANT

Vs

OBEROI REALTY LTD. (FORMERLY OBEROI CONSTRUCTIONS LTD.) & ANR.

RESPONDENT

Date of Decision : 18-04-2017

Acts Referred:

Consumer Protection Act, 1986, Section 2(1)(b), Section 2(1)(d), Section 21(a)(1), Section 2(1)(c)(1), Section 2(1)(c)(6) - Definitions -

Citation : (2017) 04 NCDRC CK 0016

Hon'ble Judges : Ajit Bharihoke, Anup K Thakur

Judgement

1. Manjit Gupta has filed the instant consumer complaint under Section 21 (a) (i) of the Consumer Protection Act, 1986 against the opposite party builder and Oberoi Springs Cooperative Housing Society.

2. Case of the complainant is that on 15.2.2012 he entered into an agreement for purchase of a flat with opposite party No.1 for consideration of Rs.2,62,00,000/- odd. Pursuant to the agreement a registered sale deed was executed on 23.3.2012 and possession of the flat was delivered to the complainant. Grievance of the complainant is that although the opposite party has promised to give him two parking spaces, only one parking space has been given. Besides, he has been overcharged on the pretext of the club membership fee and outstanding arrears.

3. We have heard the complainant on the issue of maintainability of consumer complaint. The term "complaint" for the purpose of the Consumer Protection Act has been defined as allegation in writing made by a complainant in respect of the grounds enumerated in Section 2 (1) (c) (i) to (vi) of the Act.

4. The term "complaint" has been defined in Section 2 (1) (b) as under: -

"complainant" means-

- (i) a consumer; or
- (ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force; or
- (iii) the Central Government or any State Government,
- (iv) one or more consumers, where there are numerous consumers having the same interest;
- (v) in case of death of a consumer, his legal heir or representative; who or which makes a complaint"

5. As the instant complaint has been filed by an individual, in order to qualify as a complainant for the purpose of the Act, the complainant has to show that he is a consumer as envisaged under Section 2 (1) (d) of the Act.

6. The term "consumer" has been defined under Section 2 (1) (d) of the Act as a person who buys any goods or hires or avails of any service for consideration. The instant complaint is not in relation to the purchase of goods. Therefore, in order to qualify as a consumer within the definition, the complainant has to show that he had hired or availed of any services of the opposite party for consideration.

7. On perusal of the complaint we find that this is a pure and simple case of sale of ready flat and parking space with no element of hire or avail of any service. Thus, in our considered view, the complainant who has not hired or availed of service of the opposite party cannot be termed as a consumer as envisaged under Section 2 (1) (d) of the Act. The complainant, therefore, has no locus standi to maintain the consumer complaint.

8. Complaint is accordingly rejected. It is clarified that this order will not come in the way of the complainant to avail of the remedy available to him by approaching the appropriate Forum having jurisdiction.