

(2002) 03 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

UDAYAN KUMAR SENGUPTA

APPELLANT

Vs

BASANTILATA CHOWDHURY

RESPONDENT

Date of Decision : 20-03-2002

Acts Referred:

Citation : 2003 1 CPJ 640

Hon'ble Judges : S.C.Datta , S.Majumder , D.Karformas J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal by the complainant whose case had been dismissed as being not maintainable. The appellant is the Secretary of Dhakuria Station Road, "Dakshinabas" Residents' Welfare Association, for short, Association. He has filed the case before the Forum for self and on behalf of eight flat owners. The allegation is that after delivery of possession was effected to the flat owners, cracks have developed at various portions and/or places on the Inner Super-structure of this building. The condition of the building went from bad to worse and big chunks of concrete peeled off and started falling posing grave danger and threat to the life and property of the inmates of the flats. The complainant has given the details of damages that have occurred in the flats. The Forum declined to adjudicate the dispute on the ground that voluminous evidence has to be gone into and scrutinised for adjudication of the dispute. The Forum observed that such type of cases should not be tried by a Consumer Forum. The Forum had occasion to notice the decision of the Hon'ble National Commission wherein it has been held that cases involving extensive oral evidence and scrutiny of voluminous documents need not be enquired into by any Forum. It may be noticed that the complainant has given details of damages that have allegedly occurred in the flats. The number of damages has been listed in as many as nine items. That apart, the petitioner has indicated the so-called deficiencies and damage flatwise from Flat Nos. 1 to 11. He has produced several documents in support of his allegation. The learned Counsel appearing for the respondents submits that the dispute between the parties regarding alleged deficiency in service cannot be determined unless a Commissioner for local inspection is

appointed and his report is submitted. He submits further that detailed evidence would be required to come to a conclusion about the exact nature of the deficiencies that have occurred in the flats. He submits further that a criminal case has been brought by the President of the Association against the O.Ps. and the said criminal case ended in a charge-sheet. The trial has, of course, not begun. But the criminal case is awaiting trial. The learned Counsel for the appellant submits that the criminal case arose over another matter and it has no connection with the deficiency noticed in the flats. Nevertheless, the fact remains that the dispute of the present nature cannot be determined, unless elaborate evidence is given. We have perused the judgment and we are unable to take a different view. In our opinion, the Forum was justified in declining to adjudicate the dispute. It may be remembered that the proceeding before a Forum is summary in nature and it is required to dispose of a matter within a specified period. It would be a time consuming trial which is not permissible under the Consumer Protection Act. Accordingly, we dismiss the appeal. The complainant may approach the appropriate Forum, if so advised, and if not otherwise barred. Appeal dismissed.