

(2004) 02 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

VANDANA MANOHAR DICHOLKAR

APPELLANT

Vs

SHASHIKANT UMAKANT MALVE

RESPONDENT

Date of Decision : 20-02-2004

Acts Referred:

Citation : 2004 2 CPJ 781

Hon'ble Judges : M.S.Rane , R.N.Varhadi J.

Advocate : K.A.Patil

Judgement

1. -ON perusal of the complaint, it is noticed that the complainant is a flat purchaser and O.P. the builder and alleging deficiency against the builder for non-delivery of possession of the flat that the complaint has been filed by the flat purchaser claiming the amount of consideration paid by the flat purchaser to the builder.

2. THE agreement in question between the parties have been annexed in the complaint and total agreed consideration of the flat as mentioned in Clause 3 thereof is to the extent of Rs. 2,15,000/-. It will thus be noticed that the valuation of subject matter of the claim being Rs. 2,15,000/-. It is noticed that the complainant has filed this complaint in September, 2001 by including monetary claims like compensation, interest, etc.

However, as recently held by the National Commission in the case of Shahbad Co-operative Sugar Mills v. National Insurance Co. Ltd. and Others, reported in II (2003) CPJ 81 (NC)=2003 CTJ 453 (CP) (NCDRC), and in the case of Vijay Shankar v. Mandeep Singh and Others, reported in II (2003) CPJ 170 (NC), and as recently held by us in the group of complaints being Complaint Nos. 233, 234 and 235/2003 in the case of Mr. Ramesh Unhavan and Others v. M/s. Rapid Developers and Others, decided on 20th November, 2003, for the purpose of determination of valuation of the subject matter of the complaint, the criteria should be to determine the same on the basis of valuation as agreed between the parties. Here it is noticed that the agreed consideration of the flat is Rs. 2,15,000/- which is less than Rs. 5 lakhs and thus below pecuniary limit of

jurisdiction of this Commission. In the circumstances we order return of the complaint to the complainant for presentation before the District Forum. ORDER

1. We order return of the complaint to the complainant to approach before appropriate Forum for the reasons stated in the body of the judgment.
2. Complainant shall receive and collect the proceedings in the complaint from the Registry of this Commission on 5.3.2004 and the complainant shall receive the proceedings on the said date without fail.
3. Office shall retain one set of complaint for the purpose of record of this Commission.
4. Four weeks time thereafter will be available for the complainant to approach appropriate Forum.
5. District Forum shall process the complaint in accordance with the provision of Law and Rules.
6. As far as this Commission is concerned, the matter is treated as closed.
7. Office to furnish copies of the order to parties.

Complaint returned.