

ALPHA G184 OWNERS ASSOCIATION

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v.

MAGNUM INTERNATIONAL TRADING COMPANY PVT. LTD.

(Civil Appeal No. 4718 of 2022)

MAY 15, 2023

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[J. K. MAHESHWARI AND M. M. SUNDRESH, JJ.]

Consumer Protection Act, 1986: ss. 12(1)(a), 13(6) – Procedure on admission of a complaint – Joint complaint by numerous consumers without representative capacity – Permissibility of – On facts, appellant-association of allottees filed numerous consumer complaints for delayed possession, compensation for the delay and additional demands raised, against the respondent – Affidavits filed by the appellant along with the individual affidavits of the allottees – Writ petition by the respondent which was stayed by this Court – Nonetheless, the respondent filed complaint before the District Registrar of Societies that the byelaws of the appellant association not in conformity with the 2012 Act – Matter referred to the State Registrar – State Registrar directed the appellants to amend its bylaws failing which, their registration would be cancelled – Appeal by the appellants to Registrar General – During the adjudication before the Registrars, the National Commission adjourned the proceedings sine die, till the outcome of the appeal before the Registrar General – Meanwhile the byelaws amended – On appeal, held: On facts, the allottees do not represent the others – There is no larger public interest involved – Such complainants seek reliefs for themselves and nothing beyond – Thus, no question of compliance of Order I Rule 8 CPC – Definition of 'complainant' u/s. 2(b)(i) would include multiple consumers – Members of the appellant, who had filed affidavits, would fall u/s.12(1)(a) – Complaints have already been registered – Issue pertaining to registration and the byelaws got no relevancy – Affidavits have been filed by the individual allottees – Pedantic and hyper-technical approach would cause damage to the very concept of consumerism – Even after five years the cases have not progressed – Thus, the impugned order set aside – Haryana Registration and Regulation of Societies Act, 2012.

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- A *Consumer Protection Act, 1986 – Consumer Protection Act, 2019 – Object of – Held: 2019 Act facilitates the consumers to approach the forums by providing a very flexible procedure – It is meant to encourage consumerism in the country – Any technical approach in construing the provisions against the consumer would go against the very objective behind the enactment.*

B *National Insurance Co. Ltd. v. Harsolia Motors, 2023 SCC OnLine SC 409 ; Brigade Enterprises Ltd. v. Anil Kumar Virmani (2022) 4 SCC 138 – relied on.*

Case Law Reference

- C **(2022) 4 SCC 138** relied on. **Para 18, 19**
CIVIL APPELLATE JURISDICTION : Civil Appeal No.4718
of 2022.

- From the Judgment and Order dated 16.03.2022 of the National Consumer Disputes Redressal Commission at New Delhi in RA No.52 of 2020 in Consumer Case No.3753 of 2017.

With

Civil Appeal Nos.329-332 of 2023

- E Narender Hooda, Sr. Adv., Rahul Rathore, Ms. Priyanjali Singh,
Advs. for the Appellant.

Debesh Panda, Vas Dev Verma, Kanishk Aggrawal, Advs. for the Respondent.

- F The Judgment of the Court was delivered by

M. M. SUNDRESH, J.

FACTS

- G 1. The appellant is an association formed by the allottees, registered under Section 6 of the Haryana Registration and Regulation of Societies Act, 2012 (hereinafter referred to as “the HRRS Act”) vide certificate dated 01.11.2017. The respondent herein is a builder tasked with the development of a housing project. Inter alia alleging that the respondent has failed in its obligation to construct and complete the promised flats within the timeline agreed upon, with its failure to pay compensation for

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the delay caused at its instance, and questioning the additional demands raised, the appellant approached the National Consumer Disputes Redressal Commission (hereinafter referred to as ‘the National Commission’) by filing a Consumer Complaint No. 3753 of 2017 initially on behalf of 54 allottees, and thereafter, a few others. Accordingly, complaints have been filed in Consumer Complaint No(s). 3751, 3752, 3753 & 3754 of 2017, and 407 of 2018. These complaints are filed by the appellant on behalf of the named allottees.

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2. Consequent to the interim order dated 08.01.2018 passed in Consumer Complaint No. 3753 of 2017, pleadings were completed followed by affidavits filed by the appellant along with the individual affidavits of the allottees. At that stage, the respondent filed a writ petition being W.P. (C) of 3221 of 2018 before the High Court of Delhi, which was stayed by this Court vide order dated 20.08.2018 in S.L.P. (C) No(s). 23021-23022 of 2018.

3. Notwithstanding the above, a complaint was filed by the respondent with the District Registrar of Societies, *inter alia* alleging that the aims and objectives enunciated in the byelaws of the appellant association were not in conformity with the HRRS Act. The District Registrar, Gurugram referred the matter to the State Registrar, Haryana by the order dated 03.10.2018.

4. The State Registrar, Haryana directed the appellant to amend its byelaws within six months indicating that any failure to comply would result in cancellation of the registration granted already. Aggrieved, the appellant filed an appeal before the Registrar General, Haryana. As nothing transpired on ground qua the proceedings before the Registrar General, Haryana and without prejudice to its contentions, the appellant did make an amendment which was duly registered by the District Registrar, Gurugram on 08.11.2019.

5. The complaint was taken up by the National Commission for hearing on 13.11.2019. Having been informed of the order of the State Registrar dated 12.02.2019, the proceedings were adjourned *sine die*, awaiting the outcome of the appeal before the Registrar General, Haryana.

6. The appellant submitted an application to the Registrar General, Haryana in the pending Appeal No. 320 of 2019 to place on record the

- A amended byelaws while reiterating the request for grant of stay. A writ petition was also filed by appellant being C.W.P. No. 34595 of 2019, wherein the High Court of Punjab & Haryana, at Chandigarh, vide its order dated 27.11.2019 passed an order directing the Registrar General, Haryana to decide the interim applications expeditiously.
- B 7. Before the Registrar General, Haryana the respondent raised a contention placing reliance upon a copy of the notice dated 04.10.2019, by which the Department expressed its intention to cancel the registration. Accordingly, the Registrar General, Haryana passed an order restraining any cancellation of registration.
- C 8. Under the aforesaid factual backdrop, the appellant filed an application before the National Commission to place on record the amended byelaws with the order of stay granted by the Registrar General, Haryana seeking a consequential prayer for the revival of the proceedings. The interlocutory application was allowed by taking on record the documents filed. The aforesaid order was sought to be recalled by the respondent through a review application in R.A. No. 52 of 2020.
- D 9. Subsequently, the District Registrar, Gurugram by an order dated 17.06.2020 put on hold the amendments, as certified earlier, on the premise that the period of six months granted got expired. The Registrar General, Haryana in turn dismissed the Appeal No. 320 of 2019, finding no error in the order of the State Registrar, Haryana, though the appellant's registration was not cancelled.
- E 10. The orders passed by the State Registrar and the Registrar General, Haryana were challenged before the High Court of Punjab & Haryana, at Chandigarh, in C.W.P. No. 19666 of 2021 together with an application for stay. Though, the matter is still pending adjudication there is no interim order as of now.
- F 11. Before the National Commission, an additional affidavit was filed by the respondent in the review application, placing reliance upon the order dated 07.09.2021 of the Registrar General, Haryana which is pending adjudication before the High Court. Similarly, the appellant also filed an application bringing to the notice of the National Commission, the pendency of the writ petition and the stay application. By the impugned orders, all the matters along with the interlocutory applications were adjourned awaiting appropriate orders in the writ petition. Seeking to set

aside the aforesaid orders passed by the National Commission, the present A appeals are filed before us.

SUBMISSIONS

12. Heard Shri Narendra Hooda, learned senior counsel, on behalf of the appellant, and Shri Debesh Panda, learned counsel, on behalf of B the respondent.

13. Learned counsel appearing for the appellant submitted that the respondent is bent upon preventing the appellant from seeking recourse to legal remedy. Complaints filed in the year 2017 are yet to be adjudicated on merits. The pendency of the writ petition has got no connection with the proceedings before the National Commission. It is not as if the interest of the public in general is sought to be espoused as against the members of the appellant. In any case, affidavits having been filed by the individual allottees, the National Commission has erred in adjourning the matters *sine die*. C

14. Learned counsel appearing for the respondent submitted that there is an inconsistency in the contentions raised by the appellant. If the registration of the appellant is non-existent, the very complaint would become not maintainable. Even assuming that an individual complaint could be taken up, the forum would be that of a District Consumer Disputes Redressal Commission. As the Hon'ble High Court has not granted any stay of the orders passed by the State Registrar and the Registrar General, there is no infirmity in the impugned orders. D

DISCUSSION

15. The Consumer Protection Act, 1986; 68 of 1986 (hereinafter referred to as "the 1986 Act") and the Consumer Protection Act, 2019; 35 of 2019 (hereinafter referred to as "the 2019 Act") have got a laudable objective. The 2019 Act facilitates the consumers to approach the forums by providing a very flexible procedure. It is meant to encourage consumerism in the country. Any technical approach in construing the provisions against the consumer would go against the very objective behind the enactment. We wish to place reliance on the recent decision of this Court in ***National Insurance Co. Ltd. v. Harsolia Motors***, 2023 SCC OnLine SC 409, F

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- A “21. The Act, 1986 is a social benefit-oriented legislation and, therefore, the Court has to adopt a constructive liberal approach while construing the provisions of the Act. To begin with the Preamble of the Act, 1986 which can afford useful assistance to ascertain the legislative intention, it was enacted to provide for the protection of the interests of consumers. Use of the word “protection” furnishes key to the minds of makers of the Act. Various definitions and provisions which elaborately attempt to achieve this objective have to be construed in this light without departing from the settled law that a Preamble cannot control otherwise plain meaning of a provision.
- B 22. In fact, the law meets long felt necessity of protecting the common man from such wrong for which the remedy under ordinary law for various reasons has become illusory. Various legislations and regulations permitting the State to intervene and protect interests of the consumers have become a haven for unscrupulous ones as the enforcement machinery either does not move or it moves ineffectively and inefficiently for reasons which are not necessary to be stated.
- C 23. The importance of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy. A scrutiny of various definitions such as “consumer”, “service”, “trader”, “unfair trade practice” indicates that legislature has attempted to widen the ambit and reach of the Act. Each of these definitions are in two parts, one explanatory and the other inclusive. The explanatory or the main part itself uses expressions of amplitude indicating clearly its wide sweep within its ambit to widen such things which otherwise would have been beyond its natural import.
- D 24. The provisions of the Act, 1986 thus have to be construed in favour of the consumer to achieve the purpose of enactment as it is a social benefit-oriented legislation. The primary duty of the Court/Commission while construing the provisions of such an Act is to adopt a constructive approach subject to that it should not do violence to the language of the provisions and is not contrary to attempted objective of the enactment.”
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16. Section 2(b) of the 1986 Act, under which the present complaints were filed, defines the word “complainant”. It is certainly illustrative in nature requiring a broader, exhaustive and inclusive meaning and interpretation. Similar is the case with Section 12 of the 1986 Act which specifies the manner in which a complaint shall be made. We shall place on record the relevant provisions,

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“2. Definitions. - (1) In this Act, unless the context otherwise requires,—

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(b) “complainant” means—

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- (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; or
- (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.

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12. Manner in which complaint shall be made.—(1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by –

- (a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;
- (b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

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- A (c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or
- B (d) the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general.
- (2) Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.
- C (3) On receipt of a complaint made under sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected:
- D Provided that a complaint shall not be rejected under this section unless an opportunity of being heard has been given to the complainant:
- E Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.
- F (4) Where a complaint is allowed to be proceeded with under sub-section (3), the District Forum may proceed with the complaint in the manner provided under this Act:
- G Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.
- Explanation.* - For the purpose of this section “recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.
- 13. Procedure on admission of complaint.** — (1) The District Forum shall, on admission of a complaint, if it relates to any goods,
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(6) Where the complainant is a consumer referred to in sub-clause (iv) of clause (b) of sub-section (1) of section 2, the provisions of rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon.

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17. Upon a conjoint reading of the aforesaid provisions, Section 2(1)(b)(i) of the 1986 Act would be interpreted to mean “consumers”. Sub-section (1)(b)(i) to Section 2 of the 1986 Act stands on a distinct and different footing than sub-section (1)(b) (iv), where there are numerous consumers having the same interest. Sub-section (1) (c) to Section 12 of the 1986 Act alone has to be read with sub-section (6) of Section 13 of the 1986 Act which contemplates the procedure on admission of a complaint. The need for the application of Order I Rule 8 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”), which speaks of a plaintiff representing the other public as a whole would be required only in a case involving a complaint under Section 12(1)(c) of the 1986 Act. In other words, it does not have any application when similarly placed complainants jointly make a complaint seeking the very same relief. In such a case, there is no question of Order I Rule 8 CPC being complied with as they do not represent the others, particularly when there is no larger public interest involved. Such complainants seek reliefs for themselves and nothing beyond.

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18. The 2019 Act, contains *pari materia* provisions found in the earlier one. Interpreting these provisions, this Court in *Brigade Enterprises Ltd. v. Anil Kumar Virmani* (2022) 4 SCC 138 has held as follows,

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“35. A careful reading of the above provisions would show that there is no scope for the contention that wherever there are more consumers than one, they must only take recourse to Order 1 Rule 8 CPC, even if the complaint is not on behalf of or for the benefit of, all the consumers interested in the matter. There may be cases where only “a few consumers” and not “numerous consumers” have the same interest. There is nothing in the Act to prohibit

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- A these few consumers from joining together and filing a joint complaint. A joint complaint stands in contrast to a complaint filed in a representative capacity. For attracting the provisions of Section 35(1)(c), the complaint filed by one or more consumers should be on behalf of or for the benefit of numerous consumers having same interest. It does not mean that where there are only very few consumers having the same interest, they cannot even join together and file a single complaint, but should take recourse only to independent and separate complaints.
- B 36. It is true that Section 2(5)(i) uses the expression "a consumer". If the vowel "a" and the word "consumer" appearing in Section 2(5)(i) are to be understood to exclude more than one person, it will result in a disastrous consequence while reading Section 2(5)(vi). Section 2(5)(vi) states that in the case of death of a consumer, "his legal heir or legal representative" will be a complainant. Unless the words "legal heir" and "legal representative" are understood to mean "legal heirs" and "legal representatives", a meaningful reading of the provision may not be there.
- C 37. Under Section 13(2) of the General Clauses Act, 1897, words in the singular shall include the plural and vice versa in all Central Acts and Regulations, unless there is anything repugnant in the subject or context. We cannot read anything repugnant in the subject or context of Section 2(5) or 35(1)(c) or 38(11) of the Consumer Protection Act, 2019 to hold that the word in the singular, namely, "consumer" will not include the plural.
- D 38. We may take for example a case where a residential apartment is purchased by the husband and wife jointly or by a parent and child jointly. If they have a grievance against the builder, both of them are entitled to file a complaint jointly. Such a complaint will not fall under Section 35(1)(c) but fall under Section 35(1)(a). Persons filing such a complaint cannot be excluded from Section 2(5)(i) on the ground that it is not by a single consumer. It cannot also be treated as one by persons falling under Section 2(5)(v) attracting the application of Order 1 Rule 8 CPC read with Section 38(11).

39. Therefore, the proper way of interpreting Section 35(1) read with Section 2(5), would be to say that a complaint may be filed:

- (i) by a single consumer;
- (ii) by a recognised consumer association;
- (iii) by one or more consumers jointly, seeking the redressal of their own grievances without representing other consumers who may or may not have the same interest;
- (iv) by one or more consumers on behalf of or for the benefit of numerous consumers; and
- (v) the Central Government, Central Authority or State Authority.

40. It must be remembered that the provisions of the Consumer Protection Act are in addition to and not in derogation of the provisions of any other law for the time being in force, by virtue of Section 100. Even Section 38 which prescribes the procedure to be followed by the Commission for enquiring into the complaint, does not expressly exclude the application of the provisions of CPC. Though sub-sections (9), (11) and (12) of Section 38 make specific reference only to a few provisions of the Code of Civil Procedure, the principle behind Order 1 Rule 1 enabling more than one person to join in a suit as plaintiff is not expressly excluded.

41. Therefore, we are of the considered view that while the National Commission was wrong in this case, in the peculiar facts and circumstances in permitting an application under Section 35(1)(c) read with Order 1 Rule 8 CPC, it does not mean that the complaint filed by the respondents itself is liable to be thrown out. The complaint filed by the respondents may have to be treated as a joint complaint and not a complaint in a representative capacity on behalf of 1134 purchasers. The purchasers of other flats, such as the intervenors herein may join as parties to the consumer complaint, if they so desire. As a matter of fact, it is stated by the intervenors

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- A that pursuant to the impugned order [*Anil Kumar Virmani v. Brigade Enterprises Ltd.*, 2021 SCC OnLine NCDRC 417], advertisements were issued and the intervenors have already filed impleadment application before the National Commission. They are entitled to be impleaded.”
- B (emphasis supplied)
19. Having considered the decision of this Court in ***Brigade Enterprises Ltd.*** (supra), the members of the appellant, who had filed affidavits, would fall under Section 12(1)(a) of the 1986 Act, and therefore, there is no need to go into the issue as to whether the case C would come under Section 12(1)(b) of the 1986 Act, for the good reason that the definition of ‘complainant’ under Section 2(b)(i) of the 1986 Act, will include multiple consumers. In such view of the matter, the law laid down by this Court in ***Brigade Enterprises Ltd.*** (supra) will apply on all fours to the case on hand.
- D 20. The National Commission in a subsequent decision in ***Akshay Kumar & Ors. v. Adani Brahma Synergy Pvt. Ltd*** in Consumer Complaint No. 48 of 2021 etc., dated 06.03.2023, took note of the aforesaid decision on both counts, namely, the right of several complainants having same and similar interest in filing a single complaint and computation of E pecuniary jurisdiction. The following paragraphs would be of relevance,
- “27. As has been laid down by the Hon’ble Supreme Court in ***Brigade Enterprises (supra)***, it can be concluded that for filing a Complaint under section 35(1)(c) of the Act in Representative Capacity the complaint should be filed by one or more consumers F on behalf of or for the benefit of numerous consumers having same interest.
- G 28. As in all the aforementioned Consumer Complaints, there is no sameness of interest, relying upon the Principle laid down by the Hon’ble Supreme Court in *Brigade Enterprises (supra)*, permission to file the Complaint in the representative capacity under section 35(1)(c) of the Act, cannot be granted. Therefore, the Applications seeking permission to file the Complaint in the representative capacity under section 35(1)(c) of the Act, are rejected. However, all the original Complainants in the respective**
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Complaint Cases can be permitted to file the Joint Complaints. Accordingly, the present Consumer Complaint Cases are ordered to be treated as Joint Complaints filed only on behalf of the Complainants, who have originally filed the respective Complaints.

29. Now, the question arises, whether each of the Complainants have to pay the consideration of more than ₹ 2 Crore or not, so that this Commission can entertain their Complaints.

30. As held by the Hon'ble Supreme Court in *Brigade Enterprises* (*supra*) (in para 35, 36 & 37), that there is nothing in the Act, which prohibits the few Complainants from joining together and filing Joint Complaint. The word complaint includes plural i.e., complaints also. Thus, a Joint Complaint is maintainable and it will be treated as one-complaint.”

(emphasis supplied)

21. In holding so, the National Commission took note of its earlier decision in ***Ambrish Kumar Shukla v. Ferrous Infrastructure Pvt. Ltd.*** in Consumer Complaint No. 97 of 2016 dated 07.10.2016, which is reproduced hereunder,

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(ii) Whether a complaint under Section 12(1)(c) of the Consumer Protection Act is maintainable, before this Commission, where the value of the goods or services and compensation, if any, claimed in respect of none of the allottees / purchasers exceeds Rupees one crore.

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(iii) Whether a complaint under Section 12(1)(c) of the Consumer Protection Act is maintainable before this Commission, where the value of the goods or services and the compensation claimed in respect of an individual allottee exceeds Rupees one crore in the case of one or more allottees but does not exceed Rupees one crore in respect of other allottees;

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- A **(iv) Whether a complaint under Section 12(1)(c) of the Consumer Protection Act is maintainable, in a case of allotment of several flats in a project / building, where the allotments / bookings / purchases are made on different dates and or the agreed cost of the flat and / or the area of the flat is not identical in all the bookings / allotments / purchases.”**
- B 32. In Para 12 of the Order, the larger Bench had held as under:-
“12. Issue No. (ii) and (iii)
- C Section 21 of the Consumer Protection Act, to the extent it is relevant provides that this Commission shall have jurisdiction to entertain complaints where the value of the goods or services and compensation, if any, claimed exceeds ₹ 1.00 crore. Therefore, what has to be seen, for the purpose of determining the pecuniary jurisdiction, is the value of the goods or services and the amount of the compensation claimed in the complaint. If the aggregate of (i) the value of the goods or services and (ii) the compensation claimed in the complaint exceeds ₹ 1.00 crore, this Commission would have pecuniary jurisdiction to entertain the complaint. Similarly, if the aggregate of the value of (i) the goods or services and (ii) compensation, if any, claimed in the complaint exceeds ₹ 20.00 lacs but does not exceed ₹ 1.00 Crore, the State Commission would have the pecuniary jurisdiction to entertain the complaint.
Since a complaint under Section 12(1)(c) of the Consumer Protection Act can be filed only where there are numerous consumers having the same interest and it has to be filed on behalf of or for the benefit of all the consumers so interested i.e. all of the numerous consumers having the same interest, it is the aggregate of the value of the goods purchased or services hired or availed of, by all those numerous consumers and the total compensation, if any, claimed for all those numerous consumers, which would determine the pecuniary jurisdiction of this Commission. If the aggregate of the value of the goods purchased or the services hired or availed of by all the consumers having the same interest and the total compensation, if any, claimed for all of them comes to more than ₹ 1.00 crore, the
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pecuniary jurisdiction would rest with this Commission alone. The value of the goods purchased or the services hired or availed of and the quantum of compensation, if any, claimed in respect of the one individual consumer therefore, would be absolutely irrelevant for the purpose of determining the pecuniary jurisdiction in such a complaint.

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In fact, this issue is no more res Integra in view of the decision of a Four-Members Bench of this Commission in *Public Health Engineering Department Vs. Upbhokta Sanrakshan Samiti I* (1992) CPJ 182 (NC). In the above referred case, a complaint was preferred, seeking to recover compensation for alleged negligence on the part of the petitioner which had resulted in a large number of persons getting infected by Jaundice. The names of 46 such persons were mentioned in the complaint but it was alleged that there were thousands of other sufferers who were similarly placed and that complaint was filed on behalf of all of them. The complainant had sought compensation of ₹ 20,000/- for every student victim, ₹ 10,000/- for every general victim and ₹ 1,00,000/- for the legal representatives of those who had died due to Jaundice. The District Forum held that it had no pecuniary jurisdiction to adjudicate upon the complaint. The State Commission took the view that the District Forum has to go by the value as specified for each consumer. Rejecting the view taken by the State Commission, this Commission inter-alia held as under:

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“5. In our opinion this proposition is clearly wrong since under the terms of Section 11 of the Act the pecuniary jurisdiction of the District Forum would depend upon the quantum of compensation claimed in the petition. The view expressed by the State Commission is not based on a correct understanding or interpretation of Section 11. On the plain words used in Section 11 of the Act, the aggregate quantum of compensation claimed in the petition will determine the question of jurisdiction and when the complaint is filed in a representative capacity on behalf of several persons, as in the present case, the total amount of compensation claimed by the representative body on behalf of all the persons whom it represents will govern the valuation of the complaint petition for purposes of jurisdiction”.

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- A 6. The quantum of compensation claimed in the petition being far in excess of ₹ 1.00 lac the District Forum was perfectly right in holding that it had no jurisdiction to adjudicate upon the complaint. The reversal of the said order by the State Commission was contrary to law”.
- B Therefore, irrespective of the value of the goods purchased or the service hired and availed of by an individual purchaser / allottee and the compensation claimed in respect of an individual purchaser / allottee, this Commission would have the pecuniary jurisdiction to entertain the complaint if the aggregate of the value of the goods purchased or the services hired or availed of by the numerous consumers on whose behalf or for whose benefit the complaint is filed and the total compensation claimed for all of them exceeds ₹ 1.00 crore.
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- D Issue No. (iv)
- E 13. As noted earlier, what is required for the applicability of Section 12(1)(c) of the Consumer Protection Act read with Order I Rule 8 of the Code of Civil Procedure is the sameness of the interest i.e. a common grievance of numerous persons which is sought to get redressed through a representative action. Therefore, so long as the grievance of the consumers is common and identical relief is claimed for all of them, the cost, size, area of the flat / plot and the date of booking / allotment / purchase, would be wholly immaterial. For instance, if a builder / developer has sold 100 flats in a project out of which 25 are three-bed room flats, 25 are two-bed room flats and 50 are one-bed room flats and he has failed to deliver timely possession of those flats, all the allottees irrespective of size of their respective flats / plots, the date of their respective purchase and the cost agreed to be paid by them have a common grievance i.e. the failure of the builder/ developer to deliver possession of the flat / plot sold to them and a complaint filed for the benefit of or on behalf of all such consumers and claiming same relief for all of them, would be maintainable under Section 12(1)(c) of the Consumer Protection Act. The relief claimed will be the same / identical if for instance, in a case of failure of the builder to deliver timely possession, refund, or possession or in the
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alternative refund with or without compensation is claimed for all of them. Different reliefs for one or more of the consumers on whose behalf or for whose benefit the complaint is filed cannot be claimed in such a complaint.”

(emphasis supplied)

22. The following is the ultimate conclusion arrived at,

“34. It may be mentioned here that the Judgment passed by the Three-Member Bench of this Commission in the case of *Ambrish Kumar Shukla (supra)*, has been affirmed by a Five-Member Bench of this Commission vide Order dated 26.10.2021 passed in “ *CC No. 1703 of 2018, Renu Singh v. Experion Developers Private Limited*” and other connected matters” wherein it has been held that the Full Bench of this Commission in *Ambrish Kumar Shukla & 21 Ors. v. Ferrous Infrastructure Pvt. Ltd. I 2017 CPJ 1 (NC)*, *lays down the law correctly on the issue relating to pecuniary jurisdiction.*”

35. Though, under the Consumer Protection Act, 1986, the value of goods or services and compensation claimed was to be taken for determining the pecuniary jurisdiction of the Consumer Fora but the Principle laid down by the Larger Bench in the case of Ambrish Kumar Shukla (supra), would also be applicable for determining the value of goods and services paid as consideration in the Complaint where the Complaint has been filed as a Joint-Complaint by more than one person.

36. Admittedly, in the present cases, the value of the consideration paid by all the persons who have joined as Complainants in the Joint Complaint, exceeds ₹ 2 Crores, therefore, this Commission has pecuniary jurisdiction under Section 58(1)(a)(i) of the Act to entertain all the present Joint Complaints. Accordingly, it is held that all the present Joint Complaints are maintainable before this Commission.”

(emphasis supplied)

23. In light of the aforesaid exposition of law, which the National Commission itself took note of in its subsequent decision, the present

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- A appeals deserve to be allowed. Complaints have already been registered, and in any case, the issue pertaining to registration and the byelaws has got no relevancy, particularly in light of the submission made by the learned counsel for the appellant that affidavits have been filed by individual allottees. A pedantic and hyper-technical approach would cause damage to the very concept of consumerism. We further note that even after five years the appellant is unable to proceed, and the cases have not progressed.
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24. In such view of the matter, the impugned orders are set aside, and the appeals are allowed. Pending applications, if any, are disposed of. The National Commission shall proceed to hear the matters on merits, expeditiously. No order as to costs.

Nidhi Jain

(Assisted by : Arjun Narang and Tamana, LCRAs)

Appeals allowed.