

**III (2017) CPJ 494 (NC)**  
**NATIONAL CONSUMER DISPUTES**  
**REDRESSAL COMMISSION, NEW DELHI**  
*Hon'ble Mr. Justice V.K. Jain, Presiding Member; Dr. B.C. Gupta & Dr. S.M.*  
*Kantikar, Members*

MOULIVAKKAM TRUST HEIGHTS FLATS AFFECTED BUYERS  
ASSOCIATION—Complainant

*versus*

PRIMA SRISTI HOUSING PVT. LTD. & ORS.—Opposite Parties

And

COSMOCITY FLAT BUYERS WELFARE SOCIETY & ORS.—Complainants

*versus*

ADEL LANDMARKS LTD.—Opposite Party

And

ERA DIVINE COURT HIGH RISE FLAT BUYERS ASSOCIATION—Complainant

*versus*

ADEL LANDMARKS LTD.—Opposite Parties

And

JAYPEE WISHTOWN FLAT WELFARE SOCIETY—Complainant

*versus*

JAIPRAKASH INFRA TECH LTD. & ANR.—Opposite Parties

And

NANCY LAKE HOMES CO-OP. HOUSING SOCIETY LTD.—Complainant

*versus*

NANCY ICON BUILDERS AND DEVELOPERS & ANR.—Opposite Parties

And

ASKMM FOUNDATION TRUST—Complainant

*versus*

MGL INFRA PRIVATE LTD.—Opposite Party

And

ASKMM FOUNDATION TRUST—Complainant

*versus*

WEIRD INFRASTRUCTURES CORPORATION LTD.—Opposite Parties

And

RIDGE WELFARE SOCIETY—Complainant

*versus*

TODAY HOMES INDIA PVT. LTD.—Opposite Party

And

ASKMM FOUNDATION TRUST—Complainant  
*versus*  
PRAYAG INFOTECH HI-RISE LTD.—Opposite Party  
And  
ASKMM FOUNDATION TRUST—Complainant  
*versus*  
PRAYAG INFOTECH HI-RISE LTD.—Opposite Party  
And  
ASKMM FOUNDATION TRUST—Complainant  
*versus*  
VAASTAV ALR INTERNATIONAL LTD.—Opposite Parties  
And  
COSMO CITY WELFARE SOCIETY—Complainant  
*versus*  
ADEL LANDMARKS LTD.—Opposite Party  
And  
RESIDENCIES FLAT BUYER ASSOCIATION & ORS.—Complainant  
*versus*  
UNITECH LIMITED—Opposite Party  
And  
JAYPEE KENSINGTON BOULEVARD APARTMENTS WELFARE  
ASSOCIATION—Complainant  
*versus*  
JAIPRAKASH ASSOCIATES LTD. & ANR.—Opposite Parties  
And  
JAYPEE KOSMOS APARTMENTS WELFARE ASSOCIATION—Complainant  
*versus*  
JAIPRAKASH ASSOCIATES LTD. & ANR.—Opposite Parties  
And  
JAYPEE KENSINGTON PARK APARTMENTS WELFARE ASSOCIATION—  
Complainant  
*versus*  
JAIPRAKASH ASSOCIATES LTD. & ANR.—Opposite Parties  
And  
VALUE INFRA BUYERS ASSOCIATION (REGD.)—Complainant  
*versus*  
VALUE INFRACON INDIA PVT. LTD.—Opposite Parties  
And

GAUR VALERIO OWNERS WELFARE ASSOCIATION—Complainant  
*versus*  
SHRI SHYAM BUILDCON PVT. LTD.—Opposite Party  
And  
LOGIX BLOSSOM COUNTY CONSUMERS GRIEVANCE AND WELFARE  
ASSOCIATION—Complainant  
*versus*  
LOGIX INFRASTRUCTURE PVT. LTD.—Opposite Parties  
And  
PIONEER PARK WELFARE ASSOCIATION & ORS.—Complainants  
*versus*  
PIONEER URBAN LAND & INFRASTRUCTURE LTD.—Opposite Party  
And  
ORRIS FLAT OWNERS ASSOCIATION—Complainant  
*versus*  
ORRIS INFRASTRUCTURE PVT. LTD.—Opposite Parties  
And  
ANAANI OXFORD OWNERS ASSOCIATION—Complainant  
*versus*  
AVANI PROJECT AND INFRASTRUCTURE LTD. & ORS.—Opposite Parties  
And  
KLASSIC SHAURYA JAN WELFARE SOCIETY (REGD.) & ORS.—Complainants  
*versus*  
JAIPRAKASH ASSOCIATES LTD. & ANR.—Opposite Parties  
And  
ARDEN SOCIAL WELFARE ASSOCIATION—Complainant  
*versus*  
ARIHANT INFRA REALTORS PVT. LTD.—Opposite Party  
And  
RESIDENCIES FLAT BUYER ASSOCIATION—Complainant  
*versus*  
UNITECH LTD.—Opposite Party  
And  
MAPLE TOWER CO-OP. HOUSING SOCIETY LTD.—Complainant  
*versus*  
SHRI TIRUPATI HOUSING DEVELOPMENT PVT. LTD.—Opposite Party  
And  
NEW PARK ELITE WELFARE ASSOCIATION—Complainant

*versus*

BPTP LTD. & ANR.—Opposite Parties

And

PARSVNATH VILLAS & FLOORS BUYERS ASSOCIATION—Complainant

*versus*

PARSVNATH DEVELOPERS LTD.—Opposite Party

And

JAYPEE KOVE BUYERS ASSOCIATION—Complainant

*versus*

JAIPRAKASH ASSOCIATS LTD.—Opposite Party

And

CONSUMER ONLINE FOUNDATION—Complainant

*versus*

SUPERTECH LTD.—Opposite Party

And

CONSUMER ONLINE FOUNDATION—Complainant

*versus*

SUPERTECH LTD.—Opposite Party

And

DISCOVERY PARK BUYERS WELFARE ASSOCIATION—Complainant

*versus*

BPTP Ltd. & ANR.—Opposite Parties

And

UNIHOMES HOME BUYERS WELFARE ASSOCIATION—Complainant

*versus*

UNITECH LTD.—Opposite Party

And

JAYPEE BUDDH CIRCUIT STUDIOS BUYERS ASSOCIATION—Complainant

*versus*

JAI PRAKASH ASSOCIATES LTD.—Opposite Party

And

PARSVNATH EXOTICA GHAZIABAD FLAT BUYERS ASSOCIATION—  
Complainant

*versus*

PARSVNATH DEVELOPERS LTD. & ORS.—Opposite Parties

And

JAYPEE KUBE BUYERS WELFARE ASSOCIATION—Complainant

*versus*

JAIPRAKASH ASSOCIATES LTD. & ANR.—Opposite Parties  
And  
JAYPEE KLASSIC OIL HOME BUYERS ASSOCIATION—Complainant  
*versus*  
JAIPRAKASH ASSOCIATES LTD. & ANR.—Opposite Parties  
And  
KOSMOS UNITED HOME BUYERS WELFARE ASSOCIATION—Complainant  
*versus*  
JAIPRAKASH ASSOCIATES LTD. & ANR.—Opposite Parties  
And  
TDI CITY WELFARE ASSOCIATION—Complainant  
*versus*  
TDI INFRASTRUCTURE LTD.—Opposite Party  
And  
TDI RODEO DRIVE BUYER’S ASSOCIATION—Complainant  
*versus*  
TDI INFRASTRUCTURE LTD.—Opposite Party

*Consumer Complaint Nos. 560 of 2014 & 226, 227, 228, 229, 245, 954, 474, 475, 677, 991, 992, 1226 of 2015 & 132, 133, 160, 679, 792, 796, 797, 861, 968, 1005, 1006, 1078, 1163, 1466, 1198, 1283, 1372, 1395, 1398, 1401, 1411, 1412, 1502, 1619, 1669, 1672, 1681, 1683, 1697, 1700, 1774 of 2016 with IA Nos. 6376 & 11607 /2016—Decided on 5.5.2017*

**(i) Consumer Protection Act, 1986 — Sections 2(1)(b)(ii), 2(1)(d), 2(1)(m), 12, 21(a)(i) — Consumer — ‘Voluntary Consumer Association’ (VCA) — *Locus Standi* — VCA should be a body formed by group of persons, coming together of their own will and without being motivated by any financial consideration — Sole or one of main objectives of body so formed should be to pursue, propagate, advance, safeguard or promote interests of consumers in general, or a class or sub-class of consumers as defined in Section 2(1)(d) of Consumer Protection Act — Body qualifying above conditions should be registered under Companies Act or under any other law for time being in force — A Residents Welfare Association, a co-operative society or an Association of Flat/Plot Buyers or a company, if it qualifies conditions (a) to (c) above also will be VCA, within meaning of Section 12 of Consumer Protection Act — If a body is formed with objective of making financial gains, and not to serve cause of consumer or society in general, it will not qualify as VCA within meaning of Section 12 of Consumer Protection Act — A Trust cannot be said to be VCA within meaning of Section 12 of Consumer Protection Act — VCA can file consumer complaint on behalf of single consumer as well as on behalf of more than one consumers, having identical grievance(s) and seeking identical relief(s) against same service providers.**

[\[Paras 17, 18\]](#)

(ii) Words and Phrases — ‘Association’, ‘Voluntary’ — Meaning of.

[\[Paras 7, 10\]](#)

**Result : Reference answered.**

**Cases referred:**

1. *S. Sundaram Pillai v. V.R. Pattabiraman*, [1985 \(SLT SOFT\) 331](#). (Not Applicable) [\[Para 5\]](#)
2. *Karnataka Power Transmission Corporation v. Ashok Iron Works Pvt. Ltd.*, [III \(2009\) CPJ 5 \(SC\)](#). (Not Applicable) [\[Para 6\]](#)
3. *Engineers India Ltd. v. Ghaziabad Development Authority & Anr.*, [I \(2001\) CPJ 8 \(NC\)](#). (Relied) [\[Para 11\]](#)
4. *Lotus Panache Welfare Association v. M/s. Granite Gate Properties Pvt. Ltd.*, CC No. 120 of 2015. (Relied) [\[Para 12\]](#)
5. *Amrapali Sapphire Flat Buyers Welfare Association v. Amrapali Sapphire Developers Pvt. Ltd. & Anr.*, CC No. 816 of 2016. (Relied) [\[Para 13\]](#)
6. *Pratibha Pratisthan & Ors. v. Manager, Canara Bank & Ors.*, Civil Appeal No. 3560 of 2008 and Civil Appeal No. 3561 of 2008, decided on 7.3.2017. (Relied) [\[Para 16\]](#)

**Counsel for the Parties:**

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For the Opposite Parties : *Mr. Krishnan Venugopal, Sr. Adv. with Mr. Vishal Gupta, Mr. Kumar Mihir, Mr. Sumeet Sharma, Mr. Uday Rathore, Mr. Abhishek Raj, Mr. Akhil Joshi, Mr. Rahul Gandhi, Mr. Sumesh Dhawan, Mr. Shashank Shekhar, Mr. Himanshu Tyagi, Mr. Vishal Bhatnagar, Mr. Prabhakar Tiwari, Mr. TVS Raghavendra Sreyas, Mr. Avinash Kr. Sharma and Mr. Sanjoy Kr. Ghosh, Advocates.*

## ORDER

**Mr. Justice V.K. Jain, Presiding Member**—*Vide* reference dated 20.12.2016, a Single Member Bench of this Commission, noticing that the term ‘Voluntary Consumer Association’ appearing in Section-12 of the Consumer Protection Act has not been interpreted so far either by this Commission or by the Hon’ble Supreme Court, referred the matter to a Larger Bench to interpret the said term as used in Section 12 of the Act.

2. (a) Section-12 appears in the Act under the heading “Manner in which complaint shall be made” and to the extent it is relevant reads as under:

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) .....
- (b) any recognized 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;

.....

*Explanation*—For the purposes of this section, “recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force.

(b) The term ‘complainant’ has been defined as under in Section 2(1)(b):

“(b) ‘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; or
- (iv) one or more consumer, 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.”

(c) The term ‘person’, to which reference has been made by one of the Counsel for the complainants, though it does not find reference in Section 12(1)(b) of the Act, is defined as under in Section 2(1)(m) of the Act:

“(m) “person” includes—

- (i) a firm whether registered or not;
- (ii) a Hindu undivided family;

(iii) a co-operative society;

(iv) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860) or not;”

(d) The term ‘consumer’ has been defined in Section 2(1)(d) of the Consumer Protection Act which to the extent it is relevant reads as under:

“(d) “consumer” means any person who—

- (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) (hires or avails of) any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purpose.

**3.** It would be evident from a bare perusal of Section 12(1) that a consumer complaint can be filed only, (i) by a consumer to whom the goods are sold or delivered or agreed to be sold or delivered or services are provided or agreed to be provided or (ii) by any recognized consumer association or (iii) by one or more consumers where there are numerous consumers, provided it is filed on behalf of or for the benefit of all the consumers having the same interest or (iv) by the Government. A complaint filed by an entity other than a Voluntary Consumer Association is not envisaged under Clause (b), even if such an entity is a ‘person’, as defined in Section 2(1)(m). An association of persons, unless it is a recognized consumer association within the meaning of the Act is not competent to institute a consumer complaint in terms of Clause (b). Of course, if an association of persons whether registered or not itself has purchased or agreed to purchase goods or has hired or availed services, or agreed to hire or avail services, it can institute an Individual complaint under Clause (a) in respect of the goods purchased or agreed to purchase or the services hired or availed or agreed to be hired or availed by it. In such a case, it either alone or along with other consumer(s) can also file a complaint under Clause (c), subject to the other conditions prescribed in the said Clause being fulfilled. Therefore, I find no merit in the contention that since every association of persons whether registered under the Companies Act or not, is included in the term ‘person’ as defined in Section 2(1)(m) of the Act. It can also institute a complaint in

terms of Clause (b) of Section 12. Had that been the legislative intent, the term ‘Association of Persons’ would have been used in place of the term ‘Recognized Consumer Association’, in Clause (b) of Section 12 and there would be no necessity of inserting the explanation giving a meaning to the term ‘Recognized Consumer Association’ for the purpose of Section 12 of the Act.

4. It was contended by Mr. M.L. Lahoty, Counsel for some of the complainants that an explanation cannot restrict the scope and ambit of the substantive provision, and therefore, it is not necessary for a consumer association to be registered under the Companies Act, 1956 or any other law for the time being in force. In other words his contention was that any consumer association / voluntary consumer association is competent to maintain a complaint under Clause (b) even if the said association is not registered under a statute. In my view, the said contention cannot be accepted, primarily for two reasons. Firstly, if the explanation is altogether excluded from consideration, it will not be possible to give a meaning to the word ‘recognised’ and to say which association can be said to be a recognised consumer association, in terms of Clause (b) of Section 12. The words ‘consumer association’, appearing in Clause (b) of Section 12 are preceded by the word ‘recognized’, thereby qualifying the consumer association which would be competent to institute a consumer complaint in terms of the aforesaid Clause. Therefore, a meaning had to be given to the term ‘recognized’, which in the absence of the explanation would have remained vague and incapable of a precise and definitive meaning. The recognition, in view of the explanation, comes from the registration.

Secondly, the explanation appended to Section 12 uses the word “means” and not the word “includes” before the words “any voluntary consumer association”. The use of the words ‘means’ makes it quite clear that for the limited purpose of Section 12, Voluntary Consumer Association must necessarily be registered either under the Companies Act, 1956 or under any other law for the time being in force.

5. Mr. M.L. Lahoty relied upon the decision of the Hon’ble Supreme Court in *S. Sundaram Pillai v. V.R. Pattabiraman*, 1985 (SLT SOFT) 331=(1985) 1 SCC 591 where the object of an Explanation to a statutory provision was summarized as under:

“53. Thus, from a conspectus of the authorities referred to above, it is manifest that the object of an Explanation to a statutory provision is—

- (a) To explain the meaning and intendment of the Act itself,
- (b) Where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to subserve,
- (c) To provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful,
- (d) An Explanation cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of

the Explanation, in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intendment of the enactment, and

- (e) It cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming a hindrance in the interpretation of the same.”

The above referred objectives behind incorporating an explanation in a statute do not support the contention that any association of person whether registered under any law or not can maintain a consumer complaint in terms of Clause (b) of Section 12(1) of the Consumer Protection Act. In the absence of the explanation, the term ‘recognized’ in Clause (b) shall remain obscure or vague since the legislative intent behind use of the word ‘recognized’ before the words ‘consumer association’ will not be understood and will remain vague, It is to remove this possible vagueness that the explanation has been inserted. Therefore, in order to maintain a complaint in terms of Clause (b), the voluntary consumer association must necessarily be registered under a statute whether it be Companies Act, 1956 or some other law permitting such registration.

6. Mr. Lahoty has also referred to the decision of the Hon’ble Supreme Court in *Karnataka Power Transmission Corporation v. Ashok Iron Works Pvt. Ltd.*, III (2009) CPJ 5 (SC)=(2009) 3 SCC 240, where the issue before the Hon’ble Supreme Court was whether a company can be said to be a consumer as defined in the Consumer Protection Act. Section 2(1)(d) of the Act defines ‘consumer’ to mean any person buying goods or hiring or availing services for consideration. Noticing the definition of the word ‘person’ in Section 2(1)(m) of the Act, the Hon’ble Supreme Court held that as the said definition was inclusive, there was no doubt that a company also could be a ‘consumer’ in terms of Section 2(1)(d) of the Act. The aforesaid judgment is of no help in this matter since Section 12(1)(b) of the Consumer Protection Act does not permit complaint by any and every person. It refers to the complaint made by a recognized consumer association and therefore, an association of persons, unless it qualifies as a recognized consumer association in terms of the aforesaid statutory provisions, will not be able to maintain a complaint under the aforesaid provisions though, in case, the goods are purchased or the services are hired or availed by an association, which is not a recognized consumer association, a complaint in terms of Section 12(1)(a) or 12(1)(c) can be filed by such an association.

7. The next question which arises for consideration in this reference is as to whether which association can be said to be a voluntary consumer association, within the meaning of Section 12 of the Consumer Protection Act.

This question can be divided into three parts. The first being as to what is an ‘Association’, the second being as to what is a ‘Consumer Association’ and the third being as to what is a Voluntary Consumer Association’.

The term 'Association' has been defined as under in Black's Law Dictionary IX Edition:

*“association—(16c) 1. The process of mentally collecting ideas, memories, or sensations. 2. A gathering of people for a common purpose; the persons so joined 3. An unincorporated organization that is not a legal entity separate from the persons who compose it. If an association has sufficient corporate attributes, such as centralized management continuity of existence, and limited liability, it may be classified and taxed as a corporation, - Also termed unincorporated association; voluntary association”.*

The term 'Association' has been defined as under in Oxford Dictionary:

*“Association—1 The action of joining or uniting for a common purpose; the state of being so joined. 2. A body of people organized for a common purpose; a society. 3. A document setting out the common purpose of a number of people and signed by them. A.... 5.... 6. Mental connection between related ideas; an idea, recollection, or feeling mentally connected with another.”*

Thus, an association in essence is a number of persons who come together and form a group, for prosecuting one or more specified common objectives. Therefore, a body formed by a group of persons with common aims and objectives would be an association.

**8.** Consumer Association' in essence would be an association which has the watching, protecting or safeguarding, etc., the cause (s) of the consumers as either its sole objective or one of or as one of its main objectives. If some persons come together and form an entity for the purpose of pursuing, propagating, advancing or safeguarding etc., the interests of the consumers in general or even a class or sub-class of the consumers, such an entity, in our opinion, would qualify as a 'consumer association'. For instance, even if the buyers of the residential plots or residential flats in a project developed or proposed to be developed by a builder come together and form an association, for the purpose of pursuing the rights, interests or grievances of the purchasers/allottees or even a group of purchasers or allottees in such a project, such an association, in our view, will qualify as a consumer association. In our opinion, it is not necessary for an association to qualify as a consumer association, that it should have as its objectives, protection, safeguarding and pursuing etc., of the rights and interests of the consumers in general and not only of the buyers/allottees of plots and/or flats in a particular project or locality. Even a Residents Welfare Association, if registered under a statute, will qualify as a consumer association if the sole or one of the main objectives of such an association is to protect, preserve, advance and promote the causes of the consumers in general or the consumers, comprising the members of such an association. Of course, an association which is formed to promote and safeguard the rights and interests and welfare of the consumers in general would certainly qualify as a consumer association. But, the scope of the term 'consumer association' cannot be restricted only to such an association.

**9.** So long as such an entity has the redress of the grievances of the consumers or safeguard, promotion and advancement, etc., of their rights, interest and welfare is one of

its main objectives, there is no reason to exclude such an association from the purview of Section 12 of the Consumer Protection Act, provided of course, that it also qualifies as a voluntary association and is duly registered under a statute providing for such a registration.

Even if two interpretations in the matter are possible, Consumer Protection Act being a welfare Legislation enacted for the advancement of rights and interests of the consumers, a liberal and wider interpretation should be preferred over a narrow and technical interpretation, so as to advance the object of the statute and serve the intended purpose.

**10.** The term ‘voluntary’ has been defined as under in Black’s Law Dictionary IX Edition:

“*voluntary*, (14c) 1. Done by design or intention voluntary act 2. Unconstrained by interference; not impelled by outside influence voluntary statement 3. Without valuable consideration or legal obligation; gratuitous voluntary gift. 4. Having merely nominal consideration voluntary deed. Voluntariness”,

The term ‘voluntary’ is defined as under in Oxford Dictionary:

“2. Of an action: performed or done of one’s own will, impulse, or choice; not constrained, promoted, or suggested by another. Also more widely, left to choice, not required or imposed, optional. Of an oath, a confession, etc: voluntarily made or given; not imposed or prompted by a promise or threat. Of a conveyance, a disposition, etc.: made without money or other consideration being given or promised in return, Growing wild or naturally; or spontaneous growth. Volunteer.

3.....

4.a. Assumed or adopted by free choice; freely chosen or undertaken; (of work) unpaid b. Brought about by one’s own choice or deliberate action; self-inflicted, self-induced, c. Of a society, association, etc.: entered into a free choice. Also consisting of volunteers.

5. Done by deliberate intent; designed, intentional

6. Of the will; free, unforced, unconstrained.

7. Of a person; acting from personal choice or impulse, willingly, or spontaneously, in a specified capacity. Also, endowed with the faculty of willing, b. Serving as a volunteer soldier. Also, composed of such volunteers.

8. Freely or spontaneously bestowed or made; contributed from personal choice or impulse or from generous or charitable motives.

9.

10. Of an institution, organization, etc.: maintained or supported solely or largely by voluntary contributions. Also more widely existing through voluntary support, not established by statute; in the UK (of a school) built by a voluntary

institution but maintained by a local education authority, b. Of, pertaining to, or advocating voluntarism in respect of the Church, schools, etc.”

In essence, a voluntary consumer association will be a body formed by a group of persons coming together, of their own will and without any pressure or influence from anyone and without being motivated by any financial consideration, such as making profit or earning remuneration, using the umbrella of such a body or entity. If an association is formed with a view to make gains through the activities of the association, it will not qualify as a voluntary consumer association even if the gains accrue to the association, since the objective behind formation of such a body will be to make gains and not to serve the cause of the consumer or the society in general. Of course, since no organization can be run without funds, there can be no objection to such an association accepting voluntary donations and contributions, to be used for advancing its aims and objectives,

**11. In *Engineers India Ltd. v. Ghaziabad Development Authority & Anr.*, I (2001) CPJ 8 (NC),** a consumer complaint came to be filed by the Engineer India Limited, Indirapuram Allottees Welfare Association which had been registered under the Societies Registration Act for taking care of the welfare of the allottees in the Indirapuram Scheme floated by Ghaziabad Development Authority. An objection was taken by the GDA that complaint by such an association was not maintainable. A Five-Members Bench of this Commission, rejected the contention that only the group coming into existence before any specific cause of action is eligible to file a complaint under Section 2(b)(i) of the Consumer Protection Act. The following view taken by the Five-Members Bench which otherwise binds this Bench is relevant in this regard:

“9. .... That would be a too narrow depiction to read. There are any number of examples where welfare associations are normally formed after taking possession of the flats to protect and promote the common interest of the users. The complainants are completely covered by the definition given under 2(b) (ii) of the Act, hence this objection of the opposite party No. 1 is not tenable.”

**12. In *Lotus Panache Welfare Association v. M/s. Granite Gate Properties Pvt. Ltd.*, CC No. 120 of 2015,** the complainant before this Commission was a society consisting of apartment buyers of a project namely ‘Lotus Panache’ which a developers is developing in Sector 110 of Noida. An application, seeking dismissal of the complaint was filed by the opposite party primarily on the grounds that, (i) a voluntary consumer organization can only seek reliefs which are general in nature and a society which has no privity of contract with them cannot claim reliefs such as delivery of possession of the apartment and payment of compensation to the individual allottees. Noticing that the complainant was duly registered under Societies Registration Act, and holding it to be a recognized consumer association, this Commission *inter alia* observed and held as under:

“4..... It would be seen from a perusal of the aforesaid provision that the Statute has not been placed any restriction as regards the nature of the complaint which a recognized consumer association can file. Even an individual case of the

deficiency in service can be taken up by a recognized consumer association by way of a complaint before a Consumer Forum. The very fact that the Act permits such an association to file complaint even on behalf of a consumer, who is not its member, is a clear indication that a Legislature wants to confer the same rights on such an association as are available to a consumer in a case where the services rendered to a consumer are found to be deficient or defective. In a given case, if the reliefs claimed are unconnected to each other being founded on different causes of action, there may be a valid objection to the maintainability of the complaint on the ground of misjoinder of the causes of action. But, where the reliefs claimed are of the same nature and against the same person, such an Association, in our view, is competent to file a complaint for and on behalf of all the persons, who approach the Association in this regard.

5. As far as the present case is concerned the reliefs claimed by the complainant association are common in nature since they would give identical benefits to a number of apartment buyers, who have booked apartment in the Lotus Panache Project of the opposite party Three C Universal Developers Pvt. Ltd., and are aggrieved on account of the delay in completion of the construction and other deficiencies alleged in the complaint. From whatever angle we may see, we are of the opinion that the complaint by a recognized consumer association, such as the complainant before us, is maintainable in respect of the reliefs sought in this complaint’.”

Being aggrieved from the aforesaid order, the opposite party preferred an appeal being Civil Appeal No. 8423 of 2015 before the Hon’ble Supreme Court. The said appeal however, was dismissed *vide* order dated 16.10.2015.

**13. In *Amrapali Sapphire Flat Buyers Welfare Association v. Amrapali Sapphire Developers Pvt. Ltd. & Anr.***, CC No. 816 of 2016, the consumer complaints were filed by a welfare association of the flat buyers in a project which the opposite party in the said complaint is developing. Applications were filed by the opposite party, seeking dismissal of the complaint primarily on the grounds that, (i) the complainant had no *locus standi* to file the present complaint on behalf of several allottees each of whom has a separate and distinct cause of action (ii) the complainant was not a voluntary consumer association (iii) since the sale consideration for each flat was less than Rs.1 crore, this Commission lacked the pecuniary jurisdiction to entertain the complaint.

A Bench of this Commission, *inter alia* held as under:

“3. The first question which arises for consideration is as to whether the complainant is a recognized consumer association or not. The explanation below Section 12 provides that for the purpose of the said Section recognized consumer association means any voluntary consumer association registered under the Companies Act or any other law for the time being in force. This would mean that if a voluntary consumer association is registered under any law for the time-being in force, it will be deemed to be a recognized consumer association for the

purpose of filing a complaint in terms of Section 12(1)(b) of the Consumer Protection Act. No separate recognition is required in such a case, nor does the Act contain any provision for recognizing a Voluntary Consumer Association. Admittedly, the complainant is registered under Societies Registration Act. Therefore, the first requirement of the explanation stands fulfilled:

It is contended by the learned Counsel for the applicant that mere registration under the Societies Registration Act or any other for the time being does not amount to recognition of a consumer association. His contention is that since Bureau of Indian Standards (Recognition of Consumers Associations) Rules, 1991 lay down the procedure for recognition of consumer associations, the said procedure is required to be followed and a certificate of recognition is to be obtained from the Govt of India, Ministry of Consumer Affairs in terms of the aforesaid rules. I, however, find no merit in this contention. As noted earlier, as per the explanation below Section 12, recognized consumer association means any voluntary consumer association registered under Companies Act or any other law for the time being in force. Once a voluntary consumer association is registered in the aforesaid manner, it will be deemed to be a recognized consumer association provided that it is otherwise a voluntary association of the consumers. The recognition from the Govt. of India in terms of the BIS Rules or any other rules framed under any other act, in my view, is not envisaged in the Consumer Protection Act. Therefore, I find no merit in the contention.

4. The second question which then arises is as to whether the complainant can be said to be a voluntary consumer association or not. The term 'voluntary consumer association' has not been defined in the Consumer Protection Act. Giving an ordinary meaning to it, the expression voluntary consumer association would mean that the association in question should be an organization of consumers and the membership of the organization should not be compulsory.

5. As per Clause 4 of the Memorandum of Association of the complainant its aims and objectives *inter alia* include the following:

- “(i) To protect the collective interest of the registered members of the Association;
- (ii) To protect interest of the members by representing the Association at various relevant Forums, appropriate Government, quasi-Government, judicial, statutory and other relevant bodies, including focal municipal bodies, authorities, builders, developers, association of builders and developers and other organizations which may impact the members monetarily or otherwise and take all such steps as may be necessary in this regard;
- (iii) To perform such other legal and lawful acts that may be necessary for the members of the Association;

- (iv) To work for the well-being and safety of the members of the Association, who are owners of residential/commercial plot(s) on anywhere in India;
- (v) To project, protect and pursue all matters in the collective interests of members with the society or needy persons including timely delivery and possession of plots;
- (vi) To do all acts, matters and things as are incidental or conducive to the attainment of the above aims and objects, or any one or more of them”

Considering the above-referred aims and objectives of the complainants’ society, it would be difficult to dispute that it has been set up for the purpose of protecting the interests of consumers including flat/plot buyers. Such an organization, in my opinion, qualifies as a consumer association. Since its membership is voluntary and it is registered under the Societies Registration Act, the complainant is a recognized consumer association in terms of the explanation below Section 12 of the Consumer Protection Act Therefore, I find no merit in the first ground taken in the application.

6. The next ground taken in the application is that since the value and the services, *i.e.*, the sale consideration of the flats in each case is less than Rs. 1 crore, this Commission lacks the pecuniary jurisdiction to entertain the complaint. This is also the contention of the learned Counsel for the applicant/opposite party that the complainant cannot club the individual causes of action available to each flat buyer. In my view, Section 12(1)(b) of the Consumer Protection Act does not preclude the recognized consumer association from filing a composite complaint on behalf of more than one consumers, having a similar grievance against the seller of the goods or the provider of the services, as the case may be. There is nothing in the aforesaid provision which would restrict its application to the complaint pertaining to an individual complainant. If a recognized consumer association is made to file multiple complaints in respect of several consumers having a similar cause of action, that would result only in multiplicity of proceedings without serving any useful purpose.

Once it is accepted that a consumer complaint on behalf of more than then consumers can be filed by a recognized consumer association, it can hardly be disputed that it is the aggregate value of the services which has to be taken for the purpose of determining the pecuniary jurisdiction of the consumer forum before which the complaint is filed.

If the aggregate value of the services in respect of the flat buyers on whose behalf this complaint is filed is taken exceeds Rs. 1 crore. Therefore, this Commission does possession the requisite jurisdiction to entertain the complaint.”

Three Civil Appeals, being Civil Appeal Nos. 10954, 10979 and 11094 of 2016 preferred against the above referred order were dismissed by the Hon'ble Supreme Court *vide* its order dated 21.2.2017.

14. We are in agreement with the view taken in *Granite Gate Properties Pvt. Ltd.* (supra) and *M/s. Amrapali Sapphire Developer Pvt. Ltd.* (supra) and reiterate the same.

15. Mr. Krishnan Venugopal, Senior Counsel for an opposite party drew our attention to Section 8 of the Companies Act, 2013 which provides for registration of a person or an association of persons as a limited company without addition of the word 'limited' or 'private limited' to its name, with the permission of the Central Government, if the proposed company, (a) has in its objects the promotion of commerce, art, science, sports, education,, research, social welfare, religion, charity protection of environment or any such other object; (b) intends to apply its profits, if any, or other income in promoting its objects; and (c) intends to prohibit the payment of any dividend to its members, and contended that it is only such a company whether formed under the Companies Act or under some other law, providing for such an incorporation which would qualify as a voluntary consumer association in terms of Section 12 of the Consumer Protection Act. We however, find no merit in this contention. Though, a company with the aforesaid objects may qualify as a voluntary consumer association if one of its main objectives is to promote, safeguard, propagate and pursue the rights and interests of the consumers or seek redressal of their grievances in connection with the goods purchased or agreed to be purchased or the services hired or availed or agreed to be hired or availed by them, there is nothing in Section 12 of the Act to restrict the ambit and scope of a voluntary consumer association to such a company, even the formation of which would depend upon whether the requisite permission in terms of Section 8(5) of the Companies Act, 2013 is granted by the Central Government or not.

16. One of the issues raised before us was as to whether a Trust would qualify as a voluntary consumer association, in terms of Section 12 of the Consumer Protection Act or not. The issue is no more *res integra* in view of the decision of the Hon'ble Supreme Court in *Pratibha Pratisthan & Ors. v. Manager, Canara Bank & Ors.*, Civil Appeal No. 3560 of 2008 and Civil Appeal No. 3561 of 2008 decided on 7.3.2017.

In *Pratibha Pratisthan* (supra), the Hon'ble Supreme Court considered the question as to whether a complaint can be filed by a Trust under the provisions of the Consumer Protection Act, 1986 Answering the question in negative, the Hon'ble Supreme Court *inter alia* observed and held as under:

“2. Section 2 (c) of the Act provides for a complainant making a complaint, *inter alia*, for an unfair trade practice or a restrictive trade practice adopted by any trader or service provider; a complaint in respect of goods (brought by a complainant) suffering from one or more defects; a complaint of deficiency in services hired or availed of by a complainant and so on. A complainant is defined in Section 2(b) of the Act in the following words:

(b) “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; 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;

3. It is quite clear from the above definition of a complainant that it does not include a Trust. But does a Trust come within the definition of a consumer?

A consumer has been defined in Section 2(d) of the Act as follows:

(d) “consumer” means any person who—

- (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person; but does not include a person who avails of such services of any commercial purpose;

*Explanation*—For the purposes of this clause, “commercial purpose” does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment;

4. A reading of the definition of the words ‘complaint’, ‘complainant’ and ‘consumer’ makes it clear that a Trust cannot invoke the provisions of the Act in respect of any allegation on the basis of which a complaint could be made. To put this beyond any doubt, the word ‘person’ has also been defined in the Act and Section 2 (m) thereof defines a person as follows:

(m) person’ includes—

- (i) a firm whether registered or not;
- (ii) a Hindu undivided family;
- (iii) a co-operative society;
- (iv) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860) or not;

5. On a plain and simple reading of all the above provisions of the Act it is clear that a Trust is not a person and therefore not a consumer. Consequently, it cannot be a complainant and cannot file a consumer dispute under the provisions of the Act.

6. In view of the above, we are of the opinion that the National Commission was quite right in holding that the complaint filed by the Appellant Trust was not maintainable.”

We therefore hold that a Trust cannot be said to be a Voluntary Consumer Association for the purpose of Section 12 of the Act.

**17.** For the reasons stated hereinabove, the essential characteristics of a Voluntary Consumer Association, for the purpose of Section 12 of the Consumer Protection Act, can be summarized as under:

- (a) It should be a body formed by a group of persons, coming together of their own will and without being motivated by any financial consideration;
- (b) The sole or one of the main objectives of the body so formed should be to pursue, propagate, advance, safeguard or promote the interests of the consumers in general, or a class or sub-class of the consumers as defined in Section 2(1)(d) of the Consumer Protection Act;
- (c) The body qualifying the conditions (a) and (b) above should be registered under the Companies Act or under any other law for the time being in force;
- (d) A Residents Welfare Association, a cooperative society or an Association of Flat / Plot Buyers or a company, if it qualifies conditions (a) to (c) above also will be a Voluntary Consumer Association, within the meaning of Section 12 of the Consumer Protection Act;
- (e) If a body is formed with the objective of making financial gains, and not to serve the cause of the consumer or the society in general, it will not qualify as a Voluntary Consumer Association, within the meaning of Section 12 of the Consumer Protection Act;
- (f) A Trust cannot be said to be a Voluntary Consumer Association within the meaning of Section 12 of the Consumer Protection Act.

**18.** We also hold that the Voluntary Consumer Association can file a consumer complaint on behalf of a single consumer as well as on behalf of more than one consumers, having identical grievance(s) and seeking identical relief(s) against the same service provider(s).

**19.** For the reasons stated hereinabove, the reference is answered in terms of Paras 17 and 18 hereinabove. The complaints be listed before the concerned Bench for dealing with them, in accordance with law, in the light of the answer to the reference.

***Reference answered.***

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