

NCDRC'S RULING ON  
'VOLUNTARY  
CONSUMER  
ASSOCIATION' UNDER  
THE CONSUMER  
PROTECTION ACT, 1986

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The term ‘voluntary consumer association’ appearing under Section 12 (1) (b) of the Consumer Protection Act, 1986 (the “CPA”) had not been interpreted so far until it was referred to a three member Bench of the National Consumer Disputes Redressal Commission (the “Commission”). The Commission interpreted the said term in its judgment of *Moulivakkam Trust Heights Flats Affected Buyers Association and Ors. Vs. Prime Sristi Housing Pvt. Ltd. and Ors.* [III (2017) CPJ494 (NC)]. Section 12 of the CPA whilst providing for the manner in which a complaint is to be made, provides for “*a complaint may be filed by 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*”. Section 12 further provides for an 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*”.



**Section 12 of Consumer Protection Act mentions that only ‘recognised consumer organisations’ can file a case in consumer forums. It also explains recognised consumer association as those VCAs that are registered under any law**

The primary question that arose for consideration before the Commission was whether which association can be said to be a voluntary consumer association under Section 12 of the CPA. In order to decide this question, the Commission made its observation by dividing the term into three parts: (1) **Association** – An association is a number of persons who come together and form a group, for prosecuting one or more specified common objectives; (2) **Consumer Association** - 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; (3) **Voluntary Consumer Association** - 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. The Bench whilst making the above observations referred to and relied upon certain judicial precedents in order to pronounce its judgment on “Voluntary Consumer Association”.

In *Lotus Panache Welfare Association v. M/s. Granite Gate Properties Pvt. Ltd., CC No. 120 of 2015*, the Commission held that the very fact that the CPA permits such an association to file complaint even on behalf of a consumer, who is not its member, is a clear indication that the 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. The Commission observed “*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*”.

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. The Commission *inter alia* held that the Complainant Association is registered under the Societies Registration Act. 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. By referring to the objectives of the Complainant Association, the Commission held that such an organization, qualifies as a consumer association as its membership is voluntary and it is registered under the Societies Registration Act. Therefore, the complainant is a recognized consumer association in terms of the explanation below section 12 of the CPA. The Commission further held that once it is accepted that a consumer complaint on behalf of one or more its members 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.

In view of the abovementioned judicial precedents, the Commission laid down the essential characteristics of a Voluntary Consumer Association, for the purposes of Section 12 of the CPA, as summarised below:

- (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 CPA;
- (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 CPA;
- (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 CPA;
- (f) A Trust cannot be said to be a Voluntary Consumer Association within the meaning of Section 12 of the CPA.

This judgment has paved the way for various aggrieved home buyers who could, through voluntary consumer associations initiate legal actions against unscrupulous builders, without being questioned on their locus.

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