

A GROUP OF HOMEBUYERS CAN NOW JOIN HANDS IN ORDER TO APPROACH THE APEX CONSUMER COURT

A NEWSLETTER ON THE LANDMARK JUDGMENT PASSED BY THE LD NCDRC FOR JOINT COMPLAINTS



In this Newsletter, PSP Legal, Advocates & Solicitors, has elaborated on the Landmark judgment of **Akshay Kumar & Ors v. Adani Brahma Synergy Pvt. Ltd (CC No. 48 of 2021)** which elucidated 3 major issues concerning Joint Complaints filed by the Homebuyers/ Allottees under one umbrella Complaint.

Before this judgment, there were only three ways how a Homebuyer can approach Hon'ble NCDRC i.e, by filing an individual complaint, through an association, or by filing a class action. Wherein, only a few Homebuyers could individually approach the Hon'ble NCDRC as the pecuniary jurisdiction of the said commission has increased to 2 Crores and the Homebuyers were left with no other option but to wait for other buyers in order to maintain the threshold of a class action.

However now a group of Homebuyers can directly approach the Hon'ble NCDRC collectively in a joint complaint without filing a class action suit. Wherein, in this case, the major issue raised before the Hon'ble NCDRC was to ascertain the maintainability of the joint complaints filed by the Homebuyers and to determine the pecuniary jurisdiction of the said joint complaints.

MAIN ISSUES

- (i) How the permission to file a class action should be granted ;
- (ii) if not, whether a Joint Complaint is permitted limited to themselves only
- (iii) Whether each of the persons who have approached this Commission be treated by paying consideration of 2 crores or more.

ORDER OF THE BENCH

The said matter was adjudicated by a larger bench comprising of The Hon'ble Mr. R.K Agrawal, Justice, Hon'ble Dr. S.M Kantikar, and Hon'ble Mr. Binoy Kumar. Wherein, the majority of the Homebuyers were represented by PSP Legal through its partner Mr. Aditya Parolia and Mr. Piyush Singh. After hearing the detailed arguments presented by PSP Legal the Hon'ble Commission adjudicated the above-raised issues and laid down the following:-

A. A joint complaint filed by similar people limited to their own reliefs is allowed basis of the fact that the grievance is similarly placed and the interest of the persons filing the joint complaint is the same.

B. The value of the consideration paid by all the persons who have joined as complainants in the joint complaint should collectively exceed the pecuniary jurisdiction of Rs. 2 Crores in order to approach the Hon'ble NCDRC.

The PSP Legal team led by its founding partner Mr. Aditya Parolia assisted the court in the deliverance and deliberation on the same presenting the bench with Cogent arguments to support the contention of joint complaints being filed by the aggrieved Homebuyers in a representative capacity on the basis of sameness of interest. This will make the apex consumer forum easily accessible to many and that too without the complexities of class action and time involved.

Advantages of filing joint complaints over class action Suit

- In case of a joint complaint, a group of Homebuyers who have collectively paid more than 2 Crores to the developer can directly file a consumer complaint before the Hon'ble NCDRC, wherein in case of a class action suit the group must comprise of a larger group of buyers of all the towers/blocks of the said project which is comparatively difficult to gather.
- In the case of class action suits the similarly situated buyers can join the said complaint at any stage of the case and due to the endless additions of the complainants in the said complaint, the entire process of adjudication takes a longer time period than a joint complaint.
- The cost of litigation in a class action suit is comparatively more as the complainants have to bear an additional cost of publication to be made in the local newspaper as per the law, which is not applicable in the case of joint complaints.
- The buyers of the same project seeking similar relief before the Hon'ble NCDRC can file multiple joint complaints, whereas, in case a class action suit is already pending before the Hon'ble NCDRC the buyers of the same project are left with no other option but to join the class action suit.

JUBILANT NEWS!

Now consumers can easily approach the Hon'ble NCDRC directly by filing a joint complaint for similar relief, provided they have jointly paid Rs 2 Crore and above. Earlier either each complainant had to cross this threshold and file an individual complaints or file a class action for all similarly situated homebuyers. Whereas now Homebuyers can directly approach the Hon'ble NCDRC collectively by filing a joint complaint (not class action), and the amount of the complaint irrespective of the amount paid by the Joint Complainants is to be collectively above 2 Crores. There is no doubt that after this landmark judgment, the apex consumer courts have become more accessible to Homebuyers who might not be to approach the NCDRC individually.