How to file a case in Consumer Forum against builder for delay in giving possession of the flat?

By MR.KALYAN RAO PEDDI REDDI B.COM (HONS) IN COMPANY LAW & SECRETARIAL PRAC. & BUSINESS ADMINISTRATION & ECONOMICS, ECONOMIC DEVELOPMENT; LL.M (CONSITUTIONAL LAW of India), COMPARATIVE STUDY IN (**U. S. American Constitution, Swiss Constitution, FRENCH CONSTITUTION & British Constitution)**,

C.E.O OF KALYAN LEGAL EXCEL CARE SERVICES ONLINE FOR CITIZENS & N.R.Is.

www.legalexcelcare.com

(LAUNCH: 1.1.2018),

Former District & Sessions Judge, now lives at HYDERABAD.

**Yes**, the consumers must have the *right* *to* *damages* if delayed because *delay* in delivery of possession can cause the buyer *losses* which may also leads to *defamation* of the consumer as well as the buyer. So, it is the *duty* of the *seller* to make the *losses* *good*.

That is why there are some ***sections*** for the consumer’s protection:

**Section 32** of *Sales of Goods Act, 1930* says about the rules of delivery which includes the delivery of goods on *time*.

**Sections** **57** and **58** of *Sales of Goods Act, 1930* provides the damages for *non* –*delivery* and *specific* *performance* of the contract respectively.

This leads to ‘***deficiency*** ***in*** ***service’*** for which a buyer can file a consumer complaint under **section** **2(g)** of **CONSUMER PROTECTION** **ACT**,**1986** which defines the ‘**deficiency’** means any fault, imperfection, shortcoming or inadequacy about the *nature* and *manner* *of* *performance* which is required to be maintained.

**Section 49 and 50 CONSUMER CONTRACTS REGULATIONS,** **2013** includes the terms of contract that the trader must perform the service and the *liability* for the *breach* of this term cannot be excluded

Making it mandatory for all commercial and residential real estate projects to register with the Real Estate Regulatory Authority India, now disclosure of names of promoters, project layout, the status of statutory approvals, the draft of builder-buyer agreements, land status, names and addresses of real estate agents etc is obligatory. This information has to be regularly updated on the website of the regulator as well.

Non-registration of any real estate project can also lead to punishment upto 3 years or a fine upto 10% of the cost of the project. Various provisions of the act help in protecting the uninformed customers, such as:

* The registration of the regulator can be revoked in case of any misleading or false representation, advertisements etc from his side.
* Non delivery as per the terms of the contract would lead to a complete refund of the cost borne by the customer along with the pre decided interest rate or pay monthly interest on each delay month to the buyer, if they refuse to take the sum altogether.
* The prescribed regulator will now have to give security as to quality of construction and provision of services to the customer for 5 years from the date of possession and upon any such reporting of error, the developer will have to rectify it within 30 days of complaint.
* Before actually getting a registered sale agreement signed, the buyer cannot ask for more than 10% of the property’s cost as advanced payment.

All of these mandates increase the productivity and value of the real estate industry, and set a **b**enchmark for growth and development. The act lays down that each state establish its own Appellate Tribunal that liberates the honest man and disciplines the swindlers.

SATYA MEVA JAYETHE==MERA BHARAT MAHAAN===JAIHIND.