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AMBIT OF COMMERCIAL PURPOSE UNDER THE CONSUMER PROTECTION ACT

A. Introduction

The Supreme Court (“SC”), by its judgment of September 6, 2023 in the *Vipul* case,¹ set aside the order of the National Consumer Dispute Redressal Commission (“NCDRC”) and held that the term ‘for any commercial purpose’ in the definition of ‘consumer’ in the Consumer Protection Act, 1986 (“Act”) must be understood as covering cases other than those of ‘resale of the goods’. The person buying goods either for resale or for use in large-scale profit-making activity will not be ‘consumer’ entitled to protection under the Act. However, if commercial use is by purchasers for earning livelihood through self-employment, they will be considered ‘consumers.’

B. Brief Facts

1. The appellant Rohit Chaudhary and another (“Purchasers”) had booked an office space unit (“OSU”) at Vipul Business Park in Gurugram, Haryana promoted by VL Vipul Ltd. (“VL”). However, VL failed to deliver the possession of the OSU allotted to the Purchasers.
2. Hence, they approached the NCDRC seeking refund of the amount deposited with VL.
3. VL contended that the Purchasers would not fall within the definition of ‘consumer’ as defined under Section 2(1)(d) of the Act as they were earlier engaged in another business and investments in property. This indicated that they were engaged in business or profession. Therefore, the OSU could not be said to be bought exclusively by the Purchasers for the purpose of earning their livelihood by self-employment.
4. NCDRC observed that the Purchasers were already carrying on business for the purposes of their livelihood and therefore, it cannot be said that the OSU was being purchased by them exclusively for the purposes of earning livelihood by way of self-employment.
5. NCDRC also stated that the OSU booked by the Purchasers was for earning profit and not for the purpose of earning livelihood by way of self-employment. Accordingly, it held that they were not ‘consumers’ under the Act.
6. The Purchasers, aggrieved, approached the SC seeking interpretation of the expression ‘commercial purpose’ under the Act.

C. SC’s Judgment & Reasoning

The SC:

1. Observed that: *“Going by the plain dictionary meaning of the words used in the definition section the intention of Parliament must be understood to be to exclude from the scope of the expression “consumer” any person who buys goods for the purpose of their being used in any activity engaged on a large scale for the purpose of making profit. The words ‘for any*

¹ *Rohit Chaudhary v. Vipul Ltd.*, 2023 SCC OnLine SC 1131 and available [here](#).

*commercial purpose' must be understood as covering the cases other than those of resale of the goods. The words 'for any commercial purpose' must be understood as covering the cases other than those of resale of the goods.'*²

2. Observed that going by the ordinary meaning of the expression 'commercial purpose,' 'commercial' denotes 'pertaining to commerce.' However, the explanation stated that even purchases in certain situations for 'commercial purposes' would not take the purchaser out of the definition of expression 'consumer.'³
3. Relied on the *Lilavati* case,⁴ and stated that a straight-jacket formula cannot be adopted in every case and the broad principles which can be curled out for determining whether an activity or transaction is for a commercial purpose would depend on facts and circumstances of each case.
4. If the dominant purpose of purchasing the goods or services is for a profit motive, such purchaser would not fall within the four corners of the definition of 'consumer', but if it is for one's own use, it cannot be said even in such circumstances that the transaction would be for a commercial purpose attributing profit motive and thereby excluding such person from the definition of 'consumer'.
5. Observed referring to the facts, that the Purchasers had specifically pleaded in their consumer complaint that they were in search of office space '*for their self-employment and to run their business and earn their livelihood.*' The statement that they engaged in the business of investment/dealing in property would not suggest or indicate the property proposed to be purchased from VL was for commercial purposes.
6. Held, the finding by the NCDRC is erroneous and contrary to the definition of 'consumer' in the Act.
7. Allowed the appeal, directing VL to refund to the Purchasers the amount deposited along with interest.

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² Paragraph 11 of the Judgement. Emphasis original.

³ Paragraph 12 of the Judgement.

⁴ *Lilavati Kirtilal Mehta Medical Trust v. Unique Shanti Developers*, (2020) 2 SCC 265.