



Critical Analysis of consumer protection in the financial sector LAW OF TORTS

BY:

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ABSTRACT

During the past three decades, the financial industry in India has been subjected to numerous fast reform measures. In response to the market forces of demand and supply, India's financial markets have seen significant transformations in the post-reform era. Deregulation efforts have been initiated by the regulatory agencies with the hope that the market will straighten up any anomalies. After the 2008 Global Financial Crisis, several economies have recognised the significance of consumer protection in financial services. Financial Sector Legislative Reforms Commission (FSLRC) was established in India to manage market volatility. Consumer Protection in the financial services sector is crucial. There should be no consumer complaints owing to false information or asymmetrical regulations and rules. Unfortunately, the Consumer Protection Act of 1986 in India has a little portion of the pie reserved for financial services, while the rest of the pie is reserved for products and services. This paper discusses the Consumer Protection Framework in the Financial Services & Sector and the reasons why such a framework must be enhanced. The study identifies a number of significant observations that are incorporated into the research findings.

Keyword: - financial sector, consumer rights, consumer protection, banks, & services.

Research Through Innovation

INTRODUCTION

A consumer is a person who acquires things or services in exchange for something of equal or better worth. Without a comparable advantage, consumer safety is in jeopardy. The rising cost of products and services has given rise to a plethora of consumer protection-related topics. After the advent of globalisation, wherever people may be found. Numerous regulations, laws, and other measures have been developed to It is necessary to safeguard consumers from public scrutiny. In 1986, the Consumer Protection Act was enacted. A legislative body charged with protecting the rights of customers, whether they are purchasers or end-users. Nonetheless, when it comes to purchasing. Due to a lack of honesty and transparency, sellers of financial goods and services frequently defraud their clients. Contempt for or ignorance of the rules. The objective of financial services is to help individuals maximise their resources. Utilize current human and material resources while limiting external negative effects. Life-altering shocks. This transaction is crucial and may differ from person to person or product to product. India has made great strides in recent years towards expanding access to the country's official financial sector. Government programmes like the Pradhan Mantri Jan-Dhan Yojana (PMJDY), the social security programmes Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY), Pradhan Mantri Suraksha Bima Yojana (PMSBY), the Atal Pension Yojana (APY), and the agricultural programmes Pradhan Mantri Kisan Maan Dhan Yojana (PM-KMY) and Pradhan Man Pradhan Mantri Mudra Yojana (PM-SYM) and the Yogi Maan Dhan Yojana (PMMY). These activities are altering the landscape of financial inclusion by integrating previously excluded populations into the financial system and providing them with access to financial services that were previously unavailable to them. The expansion of banking services into rural areas of India has contributed to the expansion of India's formal financial system. As the economic and financial systems continued to grow in size and complexity, the gap between the country's needs and the existing legal and regulatory frameworks grew. This was a direct outcome of both systems' expansion. Various expert committees have, at various times, identified regulatory loopholes, overlaps, and inconsistencies, as well as the need to review the legislation governing the financial industry in order to fix them.

The principle of "buyer-beware" underpins most of the banking and financial services business in India's approach (let the buyer beware). With the exception of precautions against fraud and requirements aimed to guarantee complete openness, consumers are largely left alone. As a result, the area of financial regulation in India is obscured by the vulnerable position of its consumers, many of whom lack adequate financial expertise.

LITERATURE REVIEW

ARTICLES

- **R.Raghav Rao, A Study on Consumer Protection Framework in Indian Financial Sector¹**

¹ A Study on Consumer Protection Framework in Indian Financial Sector By R.Raghavendra Rao , 2021 ISSN NO: 0022-1945Page https://www.researchgate.net/publication/360823975_A_Study_on_Consumer_Protection_Framework_in_Indian_Financial_Sector

- To control market uncertainty, the government of India formed the Financial Sector Legislative Reforms Commission (FSLRC). Having sufficient consumer protections is essential for the success of the financial services industry. No buyer should have a legitimate gripe with the service because of false or inconsistent advertising.
- The Consumer Protection Act of 1986 in India, unfortunately, separates its focus between goods and service consumers and financial service consumers. In this paper, we'll talk about the Consumer Protection Framework in Financial Sector and why it's important to have one. Specifically, the framework has to be improved because the research uncovers a few crucial insights that are then included into the study's conclusions.
- **Kana Sukumaran, FINANCIAL MARKETS AND CONSUMER PROTECTION - INDIAN EXPERIENCE²**
 - India's financial sector has seen major reforms in the previous 30 years. Post-reform, demand and supply shook India's financial markets. Deregulation began to correct market imbalances.
 - Education initiatives were introduced to help financial consumers manage their money confidently. Deregulation requires consumer protection. Financial consumer protection has attracted global attention since 2008. Consumer protection principles are discussed globally. All Indian financial regulators have client-protection programmes.
 - This study covers the consumer protection practises of each subsegment of the financial sector (banking, securities market, insurance, and pensions) and evaluates the efficiency of financial sector authorities' consumer protection practises. Literature review, secondary data used. Annual report data was used. We also consulted journals. The report justifies the importance and scope of the study. Practitioners can fix shortcomings and improve financial consumer protection.
- **DR. PRAMOD R. BOTRE's , CONSUMER PROTECTION ACT AND BANKING SECTOR: WITH SPECIAL REFERENCE TO OMBUDSMAN SCHEME³**
 - The Consumer Protection Act of 1986 establishes customers' rights and responsibilities. This law would apply to a variety of sectors. One is banking. The largest and fastest-growing industry. Public financial services are available. It assists individuals in saving money, obtaining loans, and investment. It also increased the value of a number of public services. A bank finances the government of a nation. India's industry is reputable, popular, and dependable. Customers are individuals who utilise a bank's services.
 - Since banks simultaneously serve a vast number of customers, customer conflicts are common. Included in these issues are banking services. Consumer-provider conflicts are resolved under the Consumer Protection Act. This law expedites the processing of client complaints. The RBI maintains an Ombudsman to expedite the settlement of complaints. This article describes the strategy.

² FINANCIAL MARKETS AND CONSUMER PROTECTION - INDIAN EXPERIENCE Prof K Sukumaran , Volume: 04 Issue: 09 | Sept -2020, ISSN:25823930

https://www.researchgate.net/publication/345471692_FINANCIAL_MARKETS_AND_CONSUMER_PROTECTION_-_INDIAN_EXPERIENCE

³ CONSUMER PROTECTION ACT AND BANKING SECTOR:

WITH SPECIAL REFERENCE TO OMBUDSMAN SCHEME by DR. PRAMOD R. BOTRE , ISSN 2455-9202, VOL3,ISSUE 3, <http://puneresearch.com/media/data/issues/5c0aac4a1d0f0.pdf>

BOOKS

- **LexisNexis's Introduction To The Law of Torts and Consumer Protection By Dr. Avtar Singh & Dr. Harpreet Kaur⁴**
 - This fascinating area of the law is introduced in Introduction to the Law of Torts and Consumer Protection. This book contains a large number of sample cases to help knowledge of the tort law issues covered. The book includes all significant areas of the subject. In addition, it has distinct sections on the Consumer Protection Act.
 - This book is about Understanding the Law of Torts and Consumer Protection: Fundamental Concepts and Contemporary Trends. The most recent themes added since the previous edition's publication are includes and adopts a basic and sensible approach
- **V.N.VISHWANATHAM'S -Consumer Rights in Service Sector⁵**
 - This book examines the consumer service rights of Indians. Section 2 (1)(o) of the Consumer Protection Act of 1986 defines "service" and describes how consumers can safeguard their interests in the event of a service deficiency.
 - This topic examines education, health, transport, health, and banks, as well as the interaction between service providers and recipients, how courts determine deficiencies, and precedent case law.
 - Government's role in consumer rights in the service industry was also studied. Customers, service providers, attorneys, professionals, and students can all benefit from studying this book.
- **Consumer Protection Act: A Commentary by G. B. Reddy and Baglekar Akash Kumar⁶**
 - This book analyses each section of the 2019 Consumer Protection Act.
 - Global supply chains, increased international trade, and the rise of e-commerce exposed consumers to immoral corporate practises and unfair trade. The Consumer Protection Act of 2019 protects consumer interests in this new setting.
 - This book discusses the decisions of the Supreme Court, the High Court, and the National Consumer Disputes Redressal Commission concerning portions of the previous CP Act, 1986. The authors explain how the old CP Act, 1986 was applied in court in order for readers to understand how the new CP Act, 2019 will be applied.

⁴ LexisNexis's Introduction To The Law of Torts and Consumer Protection By Dr. Avtar Singh & Dr. Harpreet Kaur ISBN-13 : 978-9389991192

⁵ V.N.VISHWANATHAM'S -Consumer Rights in Service Sector ,ISBN-13 978-8180695315:

⁶ Consumer Protection Act: A Commentary by G. B. Reddy and Baglekar Akash Kumar ISBN: 9789390715336, 9789390715534

STATEMENT OF PROBLEM

This study is conducted to address the issues and irregularities present in the financial sector. The necessity and significance of consumer protection is growing is expanding rapidly in the Indian financial sector. India suffers with the absence of exclusive legislation governing consumer protection for financial services. No consumer complaints should result from false information or asymmetrical rules and regulations. This paper discusses the Consumer Protection Framework in the Financial Services and Sector, as well as the reasons why we need a more robust framework.

RATIONALE OF STUDY

This study assesses the importance of the consumer protections provided by the diverse financial businesses and investigate the extent of consumer rights in the financial sector. Examine the most effective strategy and mechanism for defending consumer rights in the financial business and conduct research on consumer security against unethical and dishonest behaviour of financial institutions. This study proposes a recommendation for the protection of consumer rights in the financial sectors.

RESEARCH OBJECTIVE

- To understand the significance of consumer rights in the financial sector
- To analysis various scope of consumer rights in financial sector
- To Examine of suitability at the best approaches and practice
- To study about protection of consumers against unfair and deceitful practices by financial institutes
- To suggest regarding protection of consumer rights in financial sectors

RESEARCH METHODOLOGY

The doctrinal, analytical, and comparative research methodologies are the ones that would be used to carry out the research that is being proposed here. For the purpose of the research, the primary data sources are the constitution, Consumer Protection Act, 1986 and the judicial precedents. The secondary sources include things like print media; internet journals articles, research papers, and other were also used.

RESEARCH QUESTION

- What rights do consumers have in the financial sector?
- Why does India not have any special consumer protection legislation?
- Why does the Indian financial sector fail to provide service?
- Is there a Data Privacy Breach?

CHAPTER 1: MEANING NATURE AND SCOPE OF CONSUMER RIGHTS IN FINANCIAL STRUCTURE

India's economy is on the verge of undergoing significant transformation. The new draught Indian Financial Code (IFC) attempts to modernise Indian finance by revising the country's legal framework, regulatory structure, and regulators' operating procedures.

India has made numerous attempts to reevaluate its financial sector regulations in an effort to address persistent problems such as low rates of financial inclusion and innovation, the proliferation of Ponzi schemes and other forms of pyramid schemes, sky-high inflation, and the challenges of international financial integration. In some instances, government restrictions were the primary hindrance to progress. In addition to deregulation, India's problems demand the development of financial regulatory expertise. This situation is exceedingly difficult because the Indian government has pathetically few resources at its disposal. There is international discussion and debate on how to best ensure financial consumer protection and also increase financial inclusion. Different approaches are taken to the problem of using inclusive finance to boost economic growth in both developing and rising economies. Bilateral agencies have created best practises to protect consumers in the banking sector. In the aftermath of the 2008 global financial crisis, there was a reiteration of the need for a comprehensive evaluation of financial consumer protection regulations. As a result, a number of principles have emerged to increase the safety of consumers in the financial services industry. The availability of banking services in rural India has contributed to the expansion of India's burgeoning formal financial sector. However, as the size and complexity of the economic and financial systems grew, the gap between the country's needs and available resources grew existing legal and regulatory framework A number of advisory panels meet on a consistent basis. Numerous discrepancies, including regulatory gaps, overlaps, inconsistencies, etc., have been uncovered and the necessity of revising financial sector legislation to fix it.

CHAPTER 2: JUDICIAL PRECEDENTS IN 19TH CENTURY

The rapid pace of financial innovation in India's rapidly expanding economy has led to the development of a vast array of financial products, resulting in an information overload for consumers. Simultaneously, consumer finance has become increasingly do-it-yourself, and this has increased consumer autonomy with respect to important financial decisions. In light of growing evidence that consumers do not always behave rationally and in a time-consistent manner as maximizes, the public policy implications of complex financial products are unique. Biases and cognitive limitations are the most significant limitations on consumer interactions with financial service providers, with only major financial decisions being made. Rarely is it acceptable to discuss personal finances in polite company. reducing the effectiveness of social learning, the complexity of the provided data, the inefficiency and incompetence of the information source, etc.

For the sake of establishing the reach of RBI's legislative authority in the context of consumer protection, it is important to analyse Section 35-A of the BR Act, 1949. It has been ruled by the courts that RBI regulations made under Section 35-A of the BR Act, 1949 constitute secondary laws. Because of this, they take a hands-off stance and don't get involved unless the RBI's actions go beyond what's allowed by the BR Act, the parent law. The Supreme Court established binding precedent in *ICICI Bank v. Official Liquidator of APS Star Industries Ltd. & Ors.*⁸ by ruling that RBI orders made in the exercise of its functions have statutory force and are therefore enforceable. The same court held in *RBI v. Central Bank of India and others* that the RBI must exercise its authority under Section 35-A. For this reason, the RBI was tasked with issuing legally obligatory orders "in the benefit of the general public and to avoid the degradation and prejudice of banking affairs and to assure the correct administration of any banking organisation in general."

- **N. Raveendran Nair v/s Branch Manager, State Bank of India**⁷

- The complainant owns Elankath Enterprises, Venganoor P.O., Thiruvananthapuram. He sells textiles in bulk. He purchases from manufacturers and sells to wholesalers. On 12.5.1990, he deposited Rs. 98,000/- at State Bank of Travancore, Venganoor Branch and obtained a demand draught payable to State Bank of India, Surat Branch, Gujarat. He believed he could capitalise on the demand slump in Surat, so he purchased textiles there. The complainant sought to avoid loss and theft while travelling.

- **Mrs. S.S.Shirwaikar, Margao Vs. State Bank of India**⁸

- Even though the word "bearer" is not crossed out on the cheque, it is general knowledge that when a proprietor of an account writes a check in favour of the bank itself, it is intended for the bank to use the funds in accordance with the account holder's instructions and not to pay an unknown third party.
- This is due to the fact that when an account holder sends a check payable to the bank itself, it is unquestionably with the intent that the bank uses the funds for any of the indicated purposes. Therefore,

⁷ N. Raveendran Nair v/s Branch Manager, State Bank of India, 1991(2) CPR 473 (SCDRC-Kerala)

⁸ Mrs. S.S.Shirwaikar, Margao Vs. State Bank of India, Margao 1991(1) CPR 513 (SCRDC- Goa)

a check instructing the drawer, in this case the bank, to pay itself cannot be compared to a standard check payable to the bearer or to the bearer's account, in which the bank has the authority to pay the bearer. In paying a huge sum of money (Rs. 20,000) to an unknown third party, who resulted in a loss for the account holder, the bank has displayed obvious and indisputable proof of gross negligence. There is an obvious lack of honesty and integrity on the part of the bank. The customer is entitled to reimbursement for both the loss and the fees associated with submitting this complaint, given the circumstances.

- **Corporation Bank & Anr. Vs. M/s Filmalaya Pvt. Ltd⁹**

- The complaint asserted that the negligence and inadequate service provided by bank officials enabled the misuse of monies by the complainant's employee from the complainant's account that was kept with the bank. It was determined that Since it was in the custody of the worker who was convicted of forgery and fraud in connection with the case, the bank passbook is not a trustworthy piece of evidence to indicate that there was a short deposit.. The basis for the short deposit must be determined in accordance with the amounts mentioned on the depositors' pay-in slip counterfoils

- **A.R.Narayan Vs. State Bank of Hyderabad¹⁰**

- The complaint had already reached the maximum amount of cash credit that the competing bank was willing to extend to him, and he was falling behind on his payments.
- He was also behind on the payments that he owed to another financial institution. It was ruled that the opposing party bank was within its rights to refuse to authorise the complainant to make additional withdrawals from his account, and there was no shortage in service.

- **M/s Classic Electronics Vs. Punjab National Bank & Anr¹¹**

- The incorrect handling of the complainant's account and the transfer of cash from the Fixed Capital Loan account to the Working Capital Loan account were the two complaints lodged against the responding bank.
- The Commission confirmed and approved the bank's assertion that the transfer of funds from one account to another followed the complainant's instructions. It was ruled that the transfer, despite being inappropriate, was in the best interest of the complainant and afforded him the opportunity to reduce the extent to which he exceeded the limit on his drawing power. The complaint was dismissed because it was deemed vindictive and vindictive.

⁹ Corporation Bank & Anr. Vs. M/s Filmalaya Pvt. Ltd -1992(1) CPR 445 (NC)

¹⁰ A.R.Narayan Vs. State Bank of Hyderabad – 1992(1) CPR 534 (NC)

¹¹ M/s Classic Electronics Vs. Punjab National Bank & Anr. -1992(2) CPR 128 (NC)

CHAPTER 3: JUDICIAL VIEW IN 21ST CENTURY

In spite of the fact that Consumers rely significantly on the consumer courts established by the 1986 consumer protection legislation, as India lacks a specific legal framework for consumer protection. In addition, customers of financial products and services have the option of utilising the dispute resolution methods developed by the respective product and service providers. There are six key regulators in India, and they are as follows:

- ❖ SEBI
- ❖ RBI
- ❖ IRDA
- ❖ PFRDA
- ❖ EPFO
- ❖ FMC

The financial sector is currently governed by over 60 Acts and several regulations. The protection of those who use financial services is not covered by a single statute. The client may make a complaint with the consumer courts created by the Consumer Protection Act of 1986, or they may use the complaint mechanisms provided by the relevant regulators for their particular product or service. Multiple agencies are responsible for ensuring that customers of financial services are safeguarded. RBI, SEBI, IRDA, PFRDA, EPFO, and the Forward Markets Commission are India's six most important regulatory agencies (FMC).

The National Bank for Agriculture and Rural Development (NABARD), the Small Industries Development Bank of India (SIDBI), and the National Housing Bank are RBI subsidiaries involved in regulation and supervision (NHB). In extreme instances, such as the Ministry of Corporate Affairs, as many as six ministries and state governments from India are directly or indirectly involved.

Mandatory information disclosure and financial literacy and education are the two ex-ante steps that Indian authorities are implementing to protect their clients. These strategies are founded on the caveat emptor concept, sometimes known as "buyers beware." In addition, clients who have been wronged can receive compensation from financial service providers through ex-post grievance resolution procedures.

BANK PRACTICE

Financial consumer protection policies of the banking sector include the Banking Ombudsman - the institutional structure for redressing complaints relating to banking try is particularly in need of consumer protection. The government, regulatory body, and banking system in India have dealt with the problem of people not having access to banking services. Once the goals of financial inclusion have been met, the banking industry faces the challenge of meeting customers' needs for safety and convenience. In order to protect their money, customers need to be made aware of the potential dangers they face.

- **The Banking Ombudsman Scheme** was implemented by the Reserve Bank of India with the goal of safeguarding banking customers. An ombudsman in the banking industry is a quasi-judicial authority whose job it is to arbitrate disputes between clients and the banking system. Scheme came into existence in 1995 under Banking Regulation Act 1949 Section 35A and was updated in 2006 as Banking Ombudsman Scheme. Customers with complaints about their banks can take their grievances to the Banking Ombudsman, as per the programme.
- **Cyber security warnings:** With the advent of technology, customers want to make transactions online, and it is vital to educate clients on online transaction dos and don'ts. During the three years between January 2015 and December 2017, the country recorded more than 57,000 debit and credit card fraud instances totalling Rs. 290 crores. As a result, we must take caution with online banking and credit card transactions. Customers must take extreme precautions in digital financial transactions. Never reveal full card information or One-Time Passwords collected during a transaction. The PIN should be carefully guarded and memorised rather than written down. SMS/email communications may occasionally contain a link ostensibly sent by a bank to confirm specific details; however, this is often a fraudulent practise performed by con artists.
- **Ombudsman Scheme for Digital Transactions:** On January 31, 2019, the Reserve Bank of India implemented the Ombudsman Scheme for Digital Transactions, 2019. The registration of complaints has been simplified, as one can make a complaint with the Ombudsman by writing on plain paper and delivering it to the appropriate Ombudsman office by mail/email/hand delivery.
- **Ombudsman Program for NBFCs:** The grievance redressal scheme for the consumers of Non-Banking Financial Companies (NBFCs) was designed by the Reserve Bank of India under section 45L of the Reserve Bank of India Act and notified on February 23, 2018. Since then, the NBFC Ombudsman Scheme has been operational in four cities: Mumbai, Chennai, New Delhi, and Kolkata. The overall number of complaints received through the programme increased from 675 in 2017-18 to 3,991 in 2018-19. The majority of complaints (40.44 percent) are related to violations of the fair practises law, followed by violations of RBI guidelines (17.21 per cent). Other complaints included the imposition of a charge without notice and a lack of transparency in the loan agreement, which accounted for 12.63% and 9.17%, respectively. In 2018-2019, the scheme's complaint resolution rate was 99.10%, compared to 95.41% in 2017-2018.
- **Deposit Insurance Protection:** In a number of nations, deposits are insured against bank failure. The protection of bank depositors from losses caused by the failure of banks to pay on demand is either total or partial. The scheme has been in effect in India since 1962 and is administered by DICGC, a subsidiary of the Reserve Bank of India. Initially, the Deposit Insurance Scheme was extended to all commercial banks that were still in operation. Subsequently, it was expanded to other types of institutions. The DICGC provides coverage for all sorts of deposits, including savings deposits, recurring deposits, and term deposits.

CASES

- **HDFC Bank Vs. Vijay Kumar HDFC Bank Vs. Vijay Kumar**¹²

HDFC Bank Vs. vijay HDFC Bank Vs. vijay Present: Shri Sumit Bajaj, attorney for the petitioner, is present. Counsel for the petitioner is Shri Sumit Bajaj. The petitioner's counsel submitted a separate declaration to Learned counsel for the petitioner submitted a supplemental statement to the effect that he withdraws the present petition, reserving the right to file anew if necessary. if necessary, again. The present petition does not seek to grant freedom. This petition is dismissed as withdrawn without any intention of granting liberty. The record room shall get the file. withdrawn as a result. The record room shall get the file. Pronounced: Pronounced: S.K. Sachdeva S.K. Sachdeva 12.05.2017 12.05.2017 Zusätzlicher District Judge Additional District Judge in Chandigarh in Chandigarh.

- **STATE COMMISSION OF PUNJAB VS BANK OF INDIA**¹³

The complaint M/s Punjab Hide Company is said to be a registered partnership engaged in the manufacturing and supply of wet glue and finished leather, with offices in Amritsar, Punjab, and Jalandhar, Punjab, and Hapur, Uttar Pradesh (U.P.). The complainant allegedly supplied certain items to the third opposing party (OP) M/s. Bawa Shoes Limited with registered office in Goindwal Sahib and corporate office in Jalandhar. As collateral for the payment of the products, M/s. Bawa Shoes Limited opened three irrevocable letters of credit in favour of the complaint at OP-1, Punjab & Sind Bank. Credit No. 21/76/03 for 8,500,000/- was issued on 14.11.2003 with an expiration date of 10.12.2003. Third, credit No. 21/82/03 for the sum of 10,00,787 was likewise opened on 25.11.2003 with an expiration date of 15.12.2003.

- **Saloni Jindal vs Country Colonisers Pvt. Ltd. on 17 February, 2020**¹⁴

- It is needed that each builder keep a separate account at a scheduled bank for the purpose of depositing the sum that was put by buyers who want to acquire plots or flats; however, the opposing parties have not presented evidence that they have done so. The opposing party has provided no evidence or argument in this regard. The opposing parties thereby violated Section 9 of the PAPRA.
- It has been proven that the opposing parties failed to transfer control of the subject unit to the complainant within the allowed time frame and without cause. According to Section 9 of PAPRA, the amount provided by the complainant is a deposit kept in trust for the complainants by the opposing parties and must be used for the development of the plots/flats. According to a succession of judgements by the Honourable Supreme Court and the Honourable National Commission, the builder must compensate the complainant for the loss and damage caused by the failure to transfer possession.

¹² . HDFC Bank Vs. Vijay Kumar HDFC Bank Vs. Vijay Kumar, CNR No. CHCH-01 0049382017 Case No.332/11.05.2017 Case No.332/11.05.2017

¹³ STATE COMMISSION PUNJAB V/S BANK OF INDIA , Case n° First Appeal No. 1446/ 1452 Of 2014, (Against the Order dated 27/10/2014 in Complaint No. 33/2008 of the State Commission Punjab) With Ia/9111/2014 of NCDRC Cases, March 15, 2017 (case 1. Bank Of India 2. Punjab & Sind Bank Vs Punjab Hide Co. & Ors)

¹⁴ Saloni Jindal vs Country Colonisers Pvt. Ltd., 17 February, 2020

- **Harpreet Kaur vs The Katak Mahindra Bank Ltd on 26 March, 2019¹⁵**

- The OPs issued a formal response to the complainant's complaint, claiming that it was misconceived, baseless, and deserving of dismissal. The complaint is unsuitable for relief because it concealed essential information. Since she is not an OP customer, the Consumer Forum cannot hear her case.
- Due to the fact that the transaction in question took place in 2009 and the complaint was submitted in 2019, there is no possible way for the plaintiff to win their case under the applicable statute of limitations. In May 2009, the complainant placed a fixed deposit with OPs that matured on May 12, 2010. She stated that she learned of the alleged fraud on her CD account on April 8, 2010. Since the complainant has not contacted OPs, her obvious allegations are without merit. Because the complainant has accused OPs of fraud, a consumer complaint filed with the Consumer Forum is without merit. The bank filed FIR number 08 of 2010 with the Mataur Authorities Station in order for police to investigate.
- The complaint does not contest the initial transfer of Rs.15 lac to Piare Lal on 15 May 2009 as pre-mature fixed deposit withdrawals made by the bank under the account holder's instructions. On 12.5.09, Rs.20 lac was sent from the same account to Piare Lal using transfer number 02540010006420. She has not objected to the \$20,000 transfer.
- There may be a business tie between the account holder and Piare Lal, however the complainant charged bank fraud for excessive gains. She withdrew Rs. 5 lakh from an FD worth Rs. 20 lakh. Signatures of account holder's pre-mature liquidation specimen matched specimen of bank record. She has not denied knowing the 15-million-dollar beneficiary. OP denied bank workers admitted to stealing Rs. 20 lac from the complainant's account. Bank/Operating Partner refused vicarious liability. The OP desired to have the complaint dismissed.

- **Bikram Chatterji & Ors. V. Union Of India & Ors: Supreme Court On Defrauding Home-Buyers¹⁶**

1. This Supreme Court of India ruling is illustrative of the transformation in the real estate market following the implementation of RERA (The Real Estate [Regulation and Development] Act, 2016), which has resulted in the protection of homeowners' rights from the malice of builders and real estate agents.
2. The facts revealed that not even a single construction or development projects undertaken by Amrapali Group of Companies (hereinafter referred to as "the builders") between 2010 and 2014 was completed, leaving around 42,000 flats unfinished, until agitated home-buyers filed a writ petition with the Supreme Court of India in 2019.
3. In accordance with Article 32, the court accepted jurisdiction over the concerns, which attracted numerous intervention requests. In addition, the builders defaulted on lease rent expenditures to NOIDA and Greater NOIDA development authorities (hereafter referred to as "local authorities") totalling Rs.3000 crore, and both of these intervening parties contended that they had a stronger right to compensate than the home-buyers.

¹⁵ HARPREET KAUR VS THE KATAK MAHINDRA BANK

¹⁶ BIKRAM CHATTERGI & ORS. V. UNION OF INDIA, WRIT PETITION (CIVIL) NO. 940 OF 2017

4. Accordingly, a court-ordered forensic audit was done, which found that no accounting had been maintained since 2015, and that sale revenues from owners and banks had been routed to the firm's directors via numerous shell companies³. In addition, local authorities and banking institutions were grossly negligent in maintaining enough vigilance.

CHAPTER 4: CRITICAL ANALYSIS

- The majority of India's present financial restrictions date back to the country's command and control economic structure. Rather of regulating and overseeing markets and implementing sophisticated interventions to overcome market failures, their goal is to limit and control financial markets and prevent activities. This contrasts with the conventional method of controlling and monitoring markets. The existing policies are not based on an understanding of the market failures that exist in the financial sector or the mechanisms for addressing these issues.
- There are numerous laws, each of which was created to address a minor issue that was widespread at the time it was enacted. These regulations are frequently contradictory and typically out of step with the needs of India as a middle-income economy. In the 1934 preamble of the Reserve Bank of India Act, adopted by the British, a frank acknowledgment is made regarding the lack of knowledge of monetary economics at the time. The prevailing consumer protection strategy in Indian finance focuses on a disclosure-based approach. Consumers are left to their own devices to avoid being mistreated, despite the fact that businesses are required to reveal a significant number of information.
- The prevailing consumer protection strategy in Indian finance focuses on a disclosure-based approach. Consumers are left to their own devices to avoid being mistreated, despite the fact that businesses are required to reveal a significant number of information.
- However, this strategy does not solve the concerns of consumer protection in the financial sector. As a result of the complexity of financial services, the long-time horizons over which effects play out, and cognitive biases, users of financial services are frequently more vulnerable than consumers of regular goods. Consequently, the state must exert great effort to protect consumers in the financial sector.
- This is a significant deficiency in existing Indian financial legislation and regulation that imposes significant expenses on Indian consumers. A succession of scandals, such as Ponzi schemes, has occurred from the regulatory apparatus' overlaps and fissures and the consumer protection framework's weakness. There is a reoccurring danger that financial institutions with inordinate influence over their regulators may take unfair advantage of their clients.

CHAPTER 5: SUGGESTIONS AND CONCLUSION

❖ SUGGESTIONS:

1. A solid consumer protection framework that creates explicit restrictions for financial institutions' interactions with retail clients and addresses financial exclusion is required immediately. Experts have advocated reforms such as the adoption of appropriateness standards, simple and standard financial products, the move to seller beware principles, and various strategies to improve financial inclusion for the poor and small businesses, but much more must be done.
2. National programmes for financial literacy must be strengthened. The digitization of financial products and services has become relevant, necessitating a corresponding increase in digital financial literacy. Ensure that customers are informed of their possible vulnerability to digital crimes and their rights and obligations. Particularly among elderly groups, digital literacy needs to be developed.
3. Existing grievance redress mechanisms require improvement. Currently, customers must adhere to extremely technical and cumbersome procedures in redressal forums. Typically, the Ombudsman will reject a complaint if it is not adequately represented or if it does not contain sufficient information.
4. Well-informed investors are protected, and prevention is better than cure. While we appreciate the financial sector controllers for introducing a grievance redress process, a public education system that explains the dos and don'ts of financial transactions is needed. We still remember the 2008 global financial catastrophe triggered by reckless lending. Thousands more PMC Bank customers in Mumbai can avoid recent catastrophe if they are informed on the hazards and benefits of cooperative banks. All banks, insurance, mutual fund, and other financial sector employees should prioritise consumer protection through behavioural changes. Clients who are knowledgeable, capable, and confident can assess the risks and rewards of financial products. The National Centre for Financial Education (NCFE), newly established to implement India's financial education programme, must accept increased duties and protect clients' interests.

❖ CONCLUSION:

1. An effective framework for the protection of financial consumers will include these three main elements. To begin, it shields customers from unfair or dishonest business activities on the part of providers of financial services, particularly those that pertain to advertising and collection efforts.
2. It enhances the level of transparency by mandating the disclosure of information that is complete, understandable, sufficient, and comparable regarding the costs, terms, and situations of various financial goods and services.
3. It offers a recourse system to handle grievances and resolve disputes in an expedient and cost-effective manner. The consumer participation ladder consists of four essential rungs: information and consultation, partnership and empowerment, consultation and partnership, and empowerment. The importance of the role that consumer organisations play in consumer protection has garnered a lot of praise. The engagement of consumer organisations at various phases, mainly at the implementation

level, should be required of regulatory agencies in order to institutionalise the system of consumer participation.

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