

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI**

Complaint No. CC006000000054967

Mrs. Jyotsna Borkar & Mrs. Shivani Pai

..... Complainants

Versus

Mr. Pradeep Dhule

..... Respondent

MahaRERA Registration No. P51700012806

Coram: Dr. Vijay Satbir Singh, Member- I.

The complainant appeared in person.

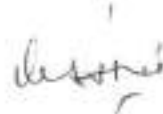
The respondent appeared in person

Mr. Vivek Gautam, Asst. Town Planner appeared from Kulgaon-Badlapur Municipal Council.

ORDER

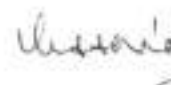
(19th September, 2018)

1. The complainants / allottees have filed this complaint seeking directions from MahaRERA to the respondent / allottee to complete the building in all respects and make it habitable. They have also demanded for payment of compensation for delay and harassment in respect of booking of their flats in the respondent's project known as 'Ekveera Gardens' at Badlapur bearing MahaRERA Registration no. 51700012806.
2. This matter was heard on several occasions and the same was heard finally today. During the last date of hearing, the complainants have argued that though the building is incomplete the concerned authority namely, Kulgaon Badlapur Municipal Council has wrongly issued part occupancy certificate with respect to the said building i.e. Wing 'A'. In order to verify the actual facts, the MahaRERA vide letter dated 7th August, 2018 called the concerned official of Planning Authority alongwith the record pertaining to issue of part



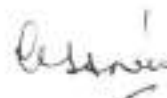
occupancy certificate for the said building. Accordingly, Mr. Vivek Gautam, Asstt. Town Planner, Kulgaon-Badlapur Municipal Council appeared before MahaRERA and submitted his note dated 18.09.2018.

3. The complainants have argued that they have booked their respective flats in the respondent's project on 26/10/2012. Accordingly, the registered agreement for sale was executed in the month of December, 2012. In the said agreement, the respondents agreed to hand over possession of the respective flats to the complainants by November, 2013 and he failed to give possession by the said date. However, in the year 2015, the respondent gave fit out possession to the complainants and other allottees without obtaining occupancy certificate. Since then the complainants are occupying their flats. However, there are severe leakage problems in the complainants' flats due to improper tiling works.
4. Further, no meter box has not been installed in the said building. The respondent has not constructed the compound wall and it contains lot of debris and construction materials. The lift provided by the respondent is not functioning properly. However, in the year 2015 itself, the respondent has taken two years maintenance and also recovered the money for solar gas connection. But, till date he has not provided with the basic amenities to the complainants. In addition to this, the complainants further argued that the respondent has not provided the backup to lift due to which the occupants of the said building are suffering interrupted power supply. Besides, there is no security for the said building as the respondent has given a few flats on rental basis to outsiders.
5. The respondent further argued that there are total 35 flats in the said building and out of which 12 to 14 allottees are occupying their own respective flats and whatever defects pointed out by the complainants have already been



attended to. The complainants have never made any complaint to him before appearing before MahaRERA. He further argued that there are two wings in the said building and the part occupancy has already been obtained on 27th Sept. 2017 for Wing-A, wherein the complainants' flat exist. The construction work of Wing B' is in progress. However, the respondent showed his willingness to rectify the defects, if any.

6. Mr. Vivek Gautam, Asstt. Town Planner, Kulgaon-Badlapur Municipal Council who appeared before MahaRERA has argued that the building was constructed as per the approved plan and part occupancy certificate was issued on 27.09.2017 after doing site verification by the then officer and after ensuring the basic requirements of grant of part occupancy certificate.
7. The MahaRERA has examined the arguments made by both the parties. In the present case, the complainants have made grievances that the respondent / developer has not provided the basic amenities, such as, back up lift, compound walls etc. as agreed upon. Moreover, there are several other internal defects in their flats. The respondent has shown his willingness to remove all the defects pointed out by the complainants. In this regard, the building wherein the complainants' flat exist has got part occupancy certificate and the respondent / developer before obtaining occupancy certificate had given fit out possession to the complainants which is not a legal possession. After completion of the building and obtaining part occupancy certificate, the respondent is responsible for the defect liabilities of the said building for five years as per the provisions of Section-14 of the RERA Act, 2016.
8. In view of these facts and in compliance of the principles of natural justice, the MahaRERA directs the respondent to rectify all the major defects pointed



out by the complainants within a period of two months from today. The MahaRERA further directs the respondent to form a society of the flat purchasers of the said building at the earliest as per the provisions of section 11(4) of the RERA Act. In addition to this, the MahaRERA directs the Chief Officer, Kulgaon Badlapur Municipal Council to conduct an enquiry to verify whether the part occupancy certificate dt. 27/09/2017 for Wing 'A' of the building known as 'Ekveera Gardens' was issued after proper verification and observance of necessary requirements.

9. With these directions, the complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member-I MahaRERA