



Ref. No. MCHI/PRES/17-18/093

## 3RD BULLETIN OF SUMMARY OF MAHARERA ORDERS

### BRIEF SUMMARY | ORDERS PASSED BY MAHA RERA

#### 1. HARISH GOVINDRAM BULCHANDANI VS. SATRA PROPERTIES (INDIA) LIMITED [ES3097](#)

**Complaint:**

Harish Govindram Bulchandani ("**Harish**") has filed a complaint against Satra Properties (India) Limited ("**Satra Properties**") stating that Harish has taken possession of his flat on 20 April 2017 from Satra Properties, however, Satra Properties has not given all amenities as was agreed between the parties vide its Agreement dated 22 December 2014. Therefore, Harish has filed the complaint seeking a direction from Maha RERA against Satra Properties to provide all amenities agreed between them.

**Argument of Satra Properties:**

Satra Properties has stated that Harish accepted possession of his flat without raising any objection or complaint on 20 April 2017 and the alleged dispute pertains to period prior to coming into force of RERA and hence Maha RERA would not have jurisdiction.

**Order of MAHA RERA:**

Maha RERA vide its order dated 27 October 2017 dismissed the complaint of Harish by accepting the arguments put forth by Satra Properties.

#### 2. ARVIND GUPTA VS. RAVINDRA SAWANT [ES3151](#)

**Complaint:**

Arvind Gupta ("**Arvind**") has filed a complaint against Ravindra Sawant ("**Ravindra**") seeking early possession of the flat which Arvind has purchased from Ravindra vide Agreement for Sale dated 29 October 2015, wherein it was agreed to handover possession to Arvind by December 2016, however, Ravindra has stated on the website of Maha RERA at the time of registration of the project that the possession would be handed over on or before 15 December 2021.

**Argument of Ravindra:**

Ravindra stated that the project is nearing completion and shall handover possession on or before 31 January 2018.

**Order of MAHA RERA:**

Maha RERA vide its order dated 27 October 2017 disposed of the complaint by stating that 31 January 2018 is commensurate to the balance work to be done and directed Ravindra to handover possession of the flat on or before 31 January 2018, failing which Ravindra shall be liable to pay interest to Arvind from 1 February 2018 till actual date of possession on the entire amount at the rate of SBI highest marginal cost of lending rate prevailing at such time plus 2%.

#### 3. ATUL GUPTA VS. SIROYA FM CONSTRUCTIONS PRIVATE LIMITED [ES3100](#)

**Complaint:**

Atul Gupta ("**Atul**") has filed a complaint against Siroya FM Constructions Private Limited ("**Siroya**") claiming possession of the flat purchased vide agreement for sale dated 11 November 2011 from Siroya.

**Argument of Siroya:**

Siroya stated that the project has been delayed due to reasons beyond its control and the flat shall be handed over by 31 January 2018 to Atul.

**Order of MAHA RERA:**

Maha RERA vide its order dated 30 October 2017 while disposing of the complaint, directed Siroya to handover the possession of the flat to Atul on 31 January 2018 failing which Siroya shall be liable to pay interest to Atul from 1 February 2018 till actual date of possession on the entire amount at the rate of SBI highest marginal cost of lending rate prevailing at such time plus 2%.

#### **4. ASHOK VITHAL PAWAR VS. LODHA PALAVA [ES3117](#)**

##### Complaint:

Ashok Vithal Pawar ("**Ashok**") has filed a complaint against LodhaPalava ("**Lodha**") for seeking a refund of Rs 90,000 (Rupees Ninety Thousand) paid by Ashok to Lodha as and by way of a booking amount for a flat in Sophistica Casa Bella Gold. Ashok stated that he cancelled the booking on 27 July 2016, however, Lodha failed to refund the aforesaid amounts to Ashok.

##### Argument of Lodha:

Lodha stated that the project referred by Ashok in the complaint has already been completed and occupation certificate has been received on 13 March 2016, i.e. prior to RERA coming into force and hence Maha RERA has no jurisdiction.

##### Order of MAHA RERA:

Maha RERA vide its order dated 3 November 2017 dismissed the complaint of Ashok on the grounds that the project is not registered with Maha RERA and it does not have any jurisdiction to entertain the complaint.

#### **5. ASHISH CHAUHAN VS. CCI PROJECTS PRIVATE LIMITED [ES3150](#)**

##### Complaint:

Ashish Chauhan ("**Ashish**") has filed a complaint against CCI Projects Private Limited ("**CCI**") alleging that the construction of the common amenity (club house) as stated in the agreement for sale is not completed till date, the buildings is not receiving water supply from the local authority and that a huge amount of statutory dues on account of property tax is outstanding and recovery proceedings have been initiated by the local authority. Further, CCI has not taken steps to form a co-operative society.

##### Argument of CCI:

CCI stated that the club house would be completed by 15 November 2017, process for formation of the society has already been initiated and approvals for getting water connection is being processed.

##### Order of MAHA RERA:

Maha RERA vide its order dated 6 November 2017 disposed of the complaint on the basis of the assurances given by CCI.

#### **6. BRIJKISHOR SONI VS. OMKAR REALTORS AND DEVELOPERS PRIVATE LIMITED [ES3142](#)**

##### Complaint:

BrijkishorSoni ("**Brijkishor**") has filed a complaint against Omkar Realtors and Developers Private Limited ("**Omkar**") seeking direction from Maha RERA against Omkar for allotting car parking in Basement 1 or Basement 2 of the building as per the agreement between the parties and in case if the same cannot be allotted then compensation at the rate of Rs 24,00,000 (Rupees Twenty Four Lac) per car parking with interest at the rate of 18% per annum from the date of the agreement till the date of actual payment.

##### Order of MAHA RERA:

Maha RERA vide its order dated 10 November 2017 dismissed the complaint by stating that there is no violation of any provision of RERA or its rules thereunder as applicable to an ongoing project and that Maha RERA has no jurisdiction to try and entertain such dispute.

#### **7. HANSA DEEPAK LALWANI VS. ARIISTO DEVELOPERS PRIVATE LIMITED [ES3138](#)**

##### Complaint:

Hansa Deepak Lalwani ("**Hansa**") has filed a complaint against Ariisto Developers Private Limited ("**Ariisto**") stating that it has executed an allotment letter with Ariisto on 24 March 2007, however, Ariisto has not executed an agreement in that regard. Hansa has filed the complaint seeking a direction from Maha RERA directing Ariisto to execute and register an agreement and handover the apartment earlier than the date provided by Ariisto on the website of Maha RERA at the time of registration of the project.

**Argument of Ariisto:**

Ariisto stated that due to unavoidable reasons such as environment and forest clearance and stay order of various courts, the building could not be constructed. However, now all necessary permissions have been received and the project should be completed by 31 December 2024 and that it is ready and willing to sign the agreement with Hansa.

During the hearing, Ariisto also agreed to handover the apartment to Hansa on or before 31 December 2021 instead of the date of 31 December 2024 provided by Ariisto to Maha RERA at the time of registration of the real estate project.

**Order of MAHA RERA:**

Maha RERA vide its order dated 13 November 2017 while disposing of the complaint, directed the parties to sign and register the agreement for sale as per RERA Rules within a period of 45 (forty five) days from the date of the order with the date of possession being 31 December 2021.

**8. NIKHIL RAVINDRANATH RAO VS. JAYESH SHAH [ES3164](#)****Complaint:**

Nikhil Ravindranath Rao ("**Nikhil**") has filed a complaint against Jayesh Shah ("**Jayesh**") stating that he had booked a flat in the project of Jayesh and it was agreed that the possession of the flat would be handed over by Jayesh on or before December 2016. However, Jayesh has failed to deliver possession of the flat and therefore, Nikhil is desirous of refund of the monies paid by him along with interest and compensation.

**Argument of Jayesh:**

Jayesh claimed that the agreement for sale with Nikhil was executed in the year 2015 when RERA was not in force and hence Maha RERA has no jurisdiction and further that Jayesh could not handover possession of the flat because the commencement certificate was sanctioned only till 17 floors instead of 21 floors proposed to be constructed and hence the delay was beyond his control.

**Order of MAHA RERA:**

Maha RERA vide its order dated 14 November 2017 disposed of the complaint by inter-alia stating that if the cause of action survives after coming into force of RERA then Maha RERA gets jurisdiction over all the disputes pertaining to the eligible real estate projects requiring registration under Section 3 of RERA. Section 79 bars jurisdiction of the civil court from entertaining any suit or proceeding in respect of any matter which Maha RERA, adjudicating officer or Appellate Tribunal is empowered to determine. Maha RERA also concluded that Jayesh is liable to refund Rs 9,11,400 (Rupees Nine Lac Eleven Thousand Four Hundred) with interest at the rate of 10.15% from 1 July 2011 together with Rs 26,48,940 (Rupees Twenty Six Lac Forty Eight Thousand Nine Hundred Forty) being the loan amount with interest charged by the banker since disbursement of the loan amount till satisfaction of the claim of Nikhil. Maha RERA also allowed refund of reimbursement of stamp duty, registration, VAT and service tax along with interest at 10.15%. Maha RERA also directed that Nihil shall execute a document of cancellation of the registered agreement for sale at the cost of Jayesh and till the time the amounts stated therein are not refunded to Nikhil there would be a charge on the flat no 6031 in Gaurav Discovery.

**9. GOVIND DAS TOKERIA VS. KEYSTONE REALTORS PRIVATE LIMITED [ES3137](#)****Complaint:**

Govind Das Tokeria ("**Govind**") has filed a complaint against Keystone Realtors Private Limited ("**Keystone**") stating that it has executed an agreement for sale in 2007 with Keystone for purchasing a shop in a project of Keystone, wherein it was agreed that the date of possession was the year 2009. However, till date the possession of the shop has not been handed over by Keystone to Govind. Govind has filed the complaint seeking direction from Maha RERA against Keystone to hand over possession of the shop at the earliest and also pay interest on the amounts already paid by Govind to Keystone towards purchase of the shop.

**Argument of Keystone:**

Keystone stated that the project was physically complete in 2010 itself, however, it was stuck with issues related to environmental clearances which has finally been cleared by the High Court in September 2017 and that the occupation certificate has been applied for by Keystone. Keystone agreed to handover possession of the Shop to Govind within a period of 2 months.

**Order of MAHA RERA:**

Maha RERA vide its order dated 15 November 2017 while disposing of the complaint, directed Keystone to handover the possession of the shop to Govind on or before 31 December 2017 failing which the Keystone shall be liable to pay interest to Govind from 1 January 2018 till actual date of possession on the entire amount at the rate of SBI highest marginal cost of lending rate prevailing at such time plus 2%.

#### **10. KamniHingoranivs. M/s Kavya Mira Realty [ES3191](#) & [ES3192](#)**

##### Complaint:

KamniHingorani ("Kamni") has filed a complaint against M.s Kavya Mira Realty ("Kavya Realty") alleging that Kavya Realty has defaulted till date in handing over possession of the flat, which was purchased by Kamni vide Agreement for Sale dated 28 February 2013 from Kavya Realty. Further, Kamni contended that she has paid 95% of the total consideration for purchase of the flat to Kavya Realty, and Kavya Realty had agreed to handover possession on or before December 2013. Further, Kavya Realty has given a revised date of handing over possession on the MahaRERA website being 31 December 2019 even though the construction is nearly completed. Kamni has requested for early possession of the flat and interest on the monies paid to Kavya Realty.

##### Argument of Kavya Realty:

Kavya Realty contended that the process of occupation certificate is ongoing and it should take 4 to 6 months for obtaining the same. However, the Hon'ble High Court of Judicature at Bombay has directed that without water connection and other necessary amenities which are to be provided by local authorities, the occupation certificate should not be issued.

##### Order of MAHA RERA:

Maha RERA disposed the matter vide its order dated 17 November 2017 by directing Kavya Realty to handover the possession of the flat to Kamni on or before 31 March 2018, considering that for an ongoing project the revised date of possession should be commensurate with the extent of the balance development as per Rule 4 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017. Maha RERA further stated that if Kavya Realty fails to handover possession to Kamni on or before 31 March 2018, then it shall be liable to pay Kamni interest at the rate of State Bank of India highest marginal cost of lending rate prevailing at such time plus 2% interest as per Rule 18 of the aforesaid rules, from 1 April 2018 till the actual date of possession on the entire amounts paid by Kamni to Kavya Realty. Maha RERA further, estopped Kavya Realty to demand the balance 5% of the consideration till actual possession of the flat is handed over.

#### **11. ANANT BAGARIA AND VASHU BAGARIA VS. GODREJ GREENVIEW HOUSING PRIVATE LIMITED [ES3204](#)**

##### Complaint:

AnantBagaria and VashuBagaria ("Bagaria's") have filed a complaint against Godrej Greenview Housing Private Limited ("Godrej") for refund of Rs 7,35,048 (Rupees Seven Lac Thirty Five Thousand Forty Eight), along with interest and compensation, paid by the Bagaria's to Godrej as and by way of advance / deposit because Bagaria's had cancelled the booking on 12 December 2016 as after making certain payments Bagaria's realised that Godrej did not have adequate approvals for the project and Godrej could not satisfy the Bagaria's in that regard. Pursuant to Bagaria's cancelling the booking, Godrej has failed to refund the monies paid to them by the Bagaria's.

##### Argument of Godrej:

Godrej contended that it had all requisite approvals and the same was communicated to Bagaria's. Godrej had also informed Bagaria's that the project did not form part of the Eco Sensitive Zone around Sanjay Gandhi National Park and sent various correspondences in that regard with the minutes of the 40th meeting of the Standing Committee of National Board of Wild Life held on 3 January 2017.

##### Order of MAHA RERA:

Maha RERA vide its order dated 21 November 2017 disposed of the complaint by inter-alia stating that at the time of Bagaria's cancelling the booking, the facts were such that any ordinary man would have laboured under the impression that the land on which the project was to be constructed was within the Eco Sensitive Zone for which Godrej did not get any approvals and hence Bagaria's are entitled to receive a refund of the monies paid by them with interest under the provisions of Section 12 of RERA. Maha RERA directed Godrej to refund Rs 7,28,148 (Rupees Seven Lac Twenty Eight Thousand One Hundred Forty Eight) along with 8.15% plus 2% interest from the date of respective payments and a sum of Rs 20,000 (Rupees Twenty Thousand) being the cost of the complaint.

**12. JAYESH MAHALE AND AMAR PANKE VS. RAVI OCHANNI [ES3208](#) & [ES3480](#)****Complaint:**

Jayesh Mahale and Amar Panke ("**Jayesh and Amar**") have filed two complaints against Ravi Ochanni ("**Ravi**") requesting Maha RERA to direct Ravi to complete the project with all amenities within the timelines provided by Ravi to Maha RERA. It was contended that though possession of the respective flats have been handed over by Ravi, the amenities are yet to be completed.

**Order of MAHA RERA:**

Maha RERA vide its order dated 22 November 2017 directed Ravi to ensure that the project is completed in all respect before the revised proposed date of 15 January 2018 as declared on website of Maha RERA and also directed RAVI to initiate steps for formation of a legal entity of allottees within 30 days of the order since more than 51% of the apartments have been booked as disclosed to Maha RERA.

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Summarised by the Real Estate Team of Khaitan & Co, Mumbai

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