

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000000424

Vidyaprasad Vishwakarma

Kushum Devi V Vishwakarma

... Complainants.

Versus

Rajesh Arvind Surti

(Raj Residency)

... Respondents.

MahaRERA Regn: P51800002739

Coram: Shri B.D. Kapadnis, Hon'ble Member
& Adjudicating Officer.

Complainant: Mr. Kiran U.Patil.


Respondent: In person.

Final Order

30th January 2018.

The parties have amicably settled their dispute and they have filed the consent terms which are marked as Exhibit 'A' for identification.

The complaint stands disposed off in terms of consent terms. The consent terms shall form the part of the order.


30.1.18

(B.D. Kapadnis)

Member & Adjudicating Officer
MahaRERA, Mumbai.

Mumbai.

Date: 30.01.2018

1897-A

BEFORE THE HON'BLE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,

3RD FLOOR, MHADA, BANDRA, EAST, MUMBAI- 400 051.**COMPLAINT NO. 006000000000424 OF 2017.**

BETWEEN

- 1) MR. VIDYAPRASAD D. VISHWAKARMA,
- 2) MRS. KUSUMDEVI V. VISHWAKARMA.

... APPLICANTS

VERSUS

- 1) M/S. RAJ BUILDERS & DEVELOPERS,
- THROUGH PROP. MR. RAJESH A. SURTI.

... OPPONENT

CONSENT TERMS

The Applicants and the Respondent above named have settled the dispute involved in the present application on amicable terms and out of the court on the following terms and the conditions which are mentioned hereinafter:

- 1) The opponent Builder Raj Builders & Developers prop. Mr. Rajesh A. Surti having their address at Subhash Nagar, New Hanuman Road, Off. M.G Road, Goregaon (West), Mumbai-400104, had agreed with the applicants in the year 2008, to allot a residential flat i.e. flat no.502, in "B" Wing, admeasuring 675 sq. ft. (Carpet Area) in the building known as "Raj Residency" on C.T.S no. 50A (Pt.) at Subhash Nagar, off. M.G road, Goregaon (W), Mumbai-400104.

- 2) The Opponent Builder has mentioned in his letter of Reservation / Allotment dated 10.12.2008 issued to the Applicants, that the cost of the said flat would be Rs. 37,65,000/- towards the said flat. Out of the said amount, the Applicants have made total payment of Rs. 34,48,450/- from time to time and the same is accepted by the Opponent Builder by acknowledging the receipts.

- 3) Though payments are received by Opponent Builder, he failed to enter into an Agreement with the Applicants as per the provisions

R & R
parties
admit
the contents
by
30.1.18

of MOFA. Meanwhile the Opponent Builder has entered into an Agreement for sale which was registered on 21.01.2016 with one Mrs. Jayshree Prabhakar Kandgatla, residing at 6-37, Motilal Nagar no.3, M.G Road, Goregaon West. Mumbai- 400104, and thereby sold the said flat to 3rd party.

- 4) Feeling aggrieved with act of the Opponent Builder the Applicants have approached the RERA Authority and thereby filed the present case. During the hearing the parties have decided to arrive at amicable settlement in view of the proposal dtd. 07.11.2017 given by the Opponent Builder which is Approved in the following terms:

a) It is hereby decided that the Opponent Builder will cancel/Transfer the Allotment of the Applicants in respect of flat no.502, which was booked, in "B" Wing, area admeasuring 675 sq.ft.(Carpet Area) in the building known as " Raj Residency" on C.T.S no. 50A (Pt.) at Subhash Nagar, off. M.G road, Goregaon (W), Mumbai- 400104 with the Raj Builders & Developers, prop. Mr. Rajesh A. Surti and in lieu of the said flat the Opponent Builder hereby agree to allot and transfer in favor of the Applicants namely Mr. Vidyaprasad D. Vishwakarma & Mrs. Kusumdevi V. Vishwakarma a flat no. 703, on the 7th floor, admeasuring area 740.00 sq. ft., carpet with one ^{Silt} Car parking in "B" Wing in the new project known as "RAJ PANTHEON" (Goregaon New Subhash Nagar CHSL) Subhash Nagar, Hanuman Nagar Road, Goregaon, (west) situated at C.T.S no. 50A (Pt.) at Subhash Nagar, off. M.G Road, Goregaon (W), Mumbai- 400104.:

b) The value and Amount paid by the Applicants till today for flat no. 502, will be adjusted towards flat no. 703, on the 7th floor, admeasuring area 740.00 Sq. ft. carpet with one ^{Silt} Car parking in "B" wing in the new project known as "RAJ PANTHEON"

(Goregaon New Subhash Nagar CHSL) Subhash Nagar, Hanuman Nagar Road, Goregaon, (West) situated at C.T.S no. 50A (Pt.) at Subhash Nagar, off. M.G road, Goregaon (W), Mumbai- 400104.

c) The Opponent Builder has agreed to give peaceful and lawful possession of the flat no. 703 on the 7th floor admeasuring area 740.00 Sq. ft. carpet with one ^{SHK} Car parking in "B" wing in the new project known as "RAJ PANTHEON" (Goregaon New Subhash Nagar CHSL) Subhash Nagar, Hanuman Nagar Road, Goregaon, (west) situated at C.T.S no. 50A (Pt.) at Subhash Nagar, off. M.G road, Goregaon (W), Mumbai- 400104, to the Applicants on or before December 2021, as mentioned in RERA.

d) In addition to the flat No. 703 agreed to be allotted by the Opponent to the Applicants on the 7th floor of the "RAJ PANTHEON" in terms of clause – iv (a) above, the Opponent has agreed and consented to pay compensation amounting to Rs.7,00,000/- for causing the change of flat above and for the mental / physical agony caused to the Applicants as and by way of full and final amount of compensation; and also monthly rent @ Rs.25,000/- per month for 3 years i.e. from November 2017 to November, 2020 totally amounting to Rs.9,00,000/- in any case of delay in time of possession in respect of said flat No. 703, Raj Pantheon, the amount of rent would be increase @ 10% For the 4th year.

e) That the Applicants / Purchasers shall unconditionally surrender their rights, title, and interest in respect of the flat no. 502, "Raj Residency" and accordingly shall return to the Opponent, the original Allotment letter along with all the payment Receipts simultaneously on execution of the Agreement in respect of the said flat No. 703, Raj Pantheon;

f) The Applicants further agreed to pay income tax, stamp duty, registration, government taxes possession charges on market value as per Gov. Rules and Regulation or any Circulars.

g) The Applicants hereby further agree to pay the taxes if any payable due to any Government Circular, Rules and Regulations in future at the time of execution of the Agreement in respect of the said Flat No. 703, in the building known as "Raj Pantheon".

h) The total amount of Rs. 16,00,000/- as mentioned at Clause 4 (d), i.e. Rs.9,00,000/- as and by way of rent for 3 years; and the compensation amount of Rs.7,00,000/- as aforesaid, would be paid in the following manner:

i. On ~~29/01/2018~~ ^{29/02/2018} the Opponent shall pay a sum of Rs.7,00,000/- by of Pay Order in favour of the Applicant No. 1/ 2. Raj

ii. Thereafter in weeks' time i.e. on or before ~~09/02/2018~~ ^{09/02/2018} an Agreement in respect of the said Flat No.703 in the building known as Raj Pantheon, will be entered, executed and Registered. Raj

iii. The balance amount of Rs. 3,16,550/- Receipt No. 997 dtd. 16.12.2017 + Rs. 1,55,180/- towards Service Tax Receipt No. 067 dtd. 15.12.2017+ Rs. 34,485/- towards VAT Receipt No. 068 dtd. 15.12.2017+ Rs. 37,986/- towards GST Receipt No. 998 dtd. 16.12.2017 = Rs. 5,44,201/- has been adjusted by the Opponent which was payable by the Applicants to him against the Balance of New Flat.

iv. The Opponent shall further issue 2 P. D. C. cheques (towards the Rent) of Abhyudaya Co-op. Bank Ltd, Borivali, East, Mumbai 66, for payment of Rs. 3,55,799/- drawn in favour of the Applicants and 1st cheque no.

20/02/2018
 100759 is dtd. ~~08.01.2018~~ and another cheque no.
 100760 is dtd. 01/01/2020 for Rs. 3,25,000/- (for rent
 from 1.01.2020 to 1.12.2021). The Opponent Party hereby
 agree and undertake to honor the respective cheques on
 the due date mentioned on the cheques;

- i) Both the Parties have agreed that they will, within a period of 1 weeks' time from today enter into a Sale Agreement in respect of the flat no. 703 on the 7th floor admeasuring area 740.00 Sq. ft.

carpet with one ~~Stall~~ parking in "B" wing in the new project known as "RAJ PANTHEON" (Goregaon New Subhash Nagar CHSL) Subhash Nagar, Hanuman Nagar Road, Goregaon, (west) situated at C.T.S no. 50A (Pt.) at Subhash Nagar, off. M.G road, Goregaon (W), Mumbai- 400104, and the same will be executed and registered on or before 29/02/2018.

- 5) We further hereby admit and accept that we have already settled the above dispute amicably between the parties with these terms and conditions which are mentioned hereinabove and assured that these terms will be fulfilled and complied, failing which aggrieved party may approach to Court.
- 6) Both the parties above hereby withdraw the allegations, claims and counter-claims if any against each other in respect of the said premises.
- 7) In view of the above terms and conditions and mutual settlements the above Application be disposed off as the Opponent builder has assured that he will fulfill his promises and assurance given as above, failing which the Applicants are at liberty to take appropriate action as per Law.
- 8) We say that whatever stated above are true and correct with our own knowledge and we believe the same to be true. We further say that the above consent terms are prepared and assured to be acted upon by us. The consent terms and its statements are made by us

without pressure and coercion from anybody, and we have made
the same with sound mind.

This consent terms is signed on ^{11 January, 2018} ~~30th December, 2017~~ at Mumbai, *Raj Surti*

Identified by me,

(Read over and explained to us in Hindi and we
have Understood the same and consented for it)

Kiran U. Patil
Kiran U. Patil

Applicants No.1 and 2

Advocate for the Applicants

विद्याप्रसाद विश्वकर्मा

Mr. Vidyaprasad D. Vishwakarma

कुसुम देवी

Mrs. Kusumdevi V. Vishwakarma

The Opponents

Raj Surti

M/s. Raj Builders & Developers,

Prop. Mr. Rajesh A. Surti.

Receipt

1) Today on ^{30th January} ~~30th December~~ 2018, we the Applicants have received a Pay Order no. 104332 dated: 29/01/18 of Rs. 7, 00,000/- (Rupees Seven Lakhs only) towards the compensation from the Opponent Builder, of Bank Namely Abhyudaya Co-op Bank Ltd. Mumbai. 400104.

2) Today on ^{30th January} ~~30th December~~ 2018, we the Applicants have received Cheques Nos. 100759 dtd. 20/01/2018 for Rs. 3,55,799/- and 100760 dtd. 01/01/2018 for Rs. 3,25,000/- towards the rent from the Opponent Builder, bank namely Abhyudaya Co-op. bank. Ltd., Borivali, East, Mumbai 66, it is given for the period of 3 years.

Accepted by:

Applicant No. 1 and 2

विद्याप्रसाद विश्वकर्मा

Mr. Vidyaprasad D. Vishwakarma,

कुसुम देवी

Mrs. Kusumdevi V. Vishwakarma

Paid by:

The Opponent;

Raj Surti

M/s. Raj Builders & Developers

Prop. Rajesh A. Surti