

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000000256

Nisar Realtor
MahaRERA Regn: P51800003806

... Complainant

Versus

Nilofer Mohd. Sami Warsi
Mohd. Sami Warsi Shaikh

... Respondents

Coram
Hon'ble Shri. Gautam Chatterjee, Chairperson


06th November 2017

Final Order

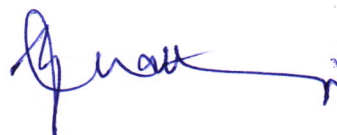
Complainant was represented by Mr. Jenil Nisar

Respondents were represented by Shri Anil Mishra, Advocate & the respondents in person.

1. The respondents have booked an apartment in the complainant's project "Rajal Classic" located at Andheri, Mumbai under a registered agreement for sale dated April 6, 2017.
2. The complainant has alleged that the respondents have failed to pay the required balance amounts as per the agreed terms of the registered agreement, in spite of repeated reminders by the complainant.
3. On the first date of hearing on October 17, 2017, the advocate for the respondents stated that the respondents have already paid certain amounts in cash which the complainant has refused to acknowledge on record and that they have taken up the said matter through FIR, with the police authorities for resolution. Further, they stated that the agreement for sale executed does not mention any specific date of possession and the complainant in its MahaRERA registration has stated the revised proposed date of completion as December 2027.



4. The complainant was asked to commit on a revised date of possession which should be commensurate with the extent of development already completed as per the provisions of 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.
5. On the second date of hearing, the complainant stated that out of the total consideration amount of Rs 53,71,000 agreed upon in the registered agreement for sale, the respondent has already paid Rs 22,00,000 and they ought to pay an amount of Rs. 33,71,000 to the complainant towards balance payment for the said apartment immediately along with interest from the date of the registered agreement. Regarding a revised date of possession, the complainant expressed their inability in view of some encroachments on the plot which may delay the issuance of Occupancy Certificate.
6. Since the project is yet to be completed, the complainant cannot demand the entire amount be paid by the respondents before handing over the possession of the apartment, even though they have mentioned so in the agreement for sale. An amount equal to 10% of the total consideration amount will be payable by the respondents to the complainant only at the time of handing over of possession of the said apartment.
7. Therefore, in view of the aforesaid facts, the respondents shall pay to the complainant Rs. 26,33,900 for the said apartment within 45 days from the date of this Order, failing which the respondents shall be liable to pay interest to the complainant till the actual date of complete payment, on the balance amount to be paid by the respondents to the complainant.
8. Further, the complainant is directed to handover the possession of the said flat to the respondents before the period ending December 2018, failing which the complainant shall be liable to pay interest to the respondents from January 2019 till the actual date of possession, on the entire amount paid by the respondents to the complainant.
9. The interest to be paid by the parties shall be at the rate of the State Bank of India highest Marginal Cost of lending Rate prevailing at such time plus two percent, as



prescribed under Rule 18 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.

10. The respondents' claim pertaining to the disputed amount paid in cash, which is not admitted by the complainant and which cannot be documentarily proved, is being investigated by the police authorities. Hence, no directions are being issued in this regard.

11. Consequently, the matter is hereby disposed of.



(Gautam Chatterjee)
Hon'ble Chairperson, MahaRERA