

MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL UNDER RERA Act

Appeal No.AT006000000000150

Green Space Developers
Project Angel Hills, a registered
Partnership firm through its Partner
Mr. Atul Ratnakar Mahashabde
1074, Sadashiv Peth, Pune 411 030

.. Appellant/s

V/s.

Parag Pradip Mantri
E-001 Angel Hills,
Talegaon Dabhade,
Tal Maval, Dist. Pune

.. Respondent/s

Adv. Heblikar for the Appellant.
Respondent Parag Mantri appeared in person.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 21st March, 2018
Dictated/Pronounced on: 21st March, 2018
Transcribed on : 21st March, 2018

:ORAL ORDER:

1. Heard finally.
2. The appellant is already directed to deposit Rs.15000/- as part of penalty in terms of Proviso 43(5) of Real Estate (Regulation and Development) Act, 2016 (RERA). The appellant feels aggrieved by order dt. 5th Feb. 2018 of Ld. Adjudicating Officer, MahaRERA, Mumbai.
3. The compass of controversy between the parties indeed is narrowed. It is not in dispute now that the building developed by the appellant as a developer / promoter is fully constructed, however, few amenities are left and in particular of the road to be complied with. The appellant has applied for grant of occupancy / Completion certificate which according to him was on 16th August, 2013.
4. The complainant had booked Flat no E/001 situated at the Appellant Angel Hill Project situated at Talegaon, Dabhade, Dist. Pune. The grievance of the complainant was that the project was not registered with MahaRERA and hence there was contravention of Sec. 3 of RERA.
5. In the light of rival pleading, it was noticed by Ld. Member and Adjudicating Officer, MahaRERA, Mumbai that the appellant has constructed the building,



however, some common areas and agreed amenities are left to be adhered to and there is wanting of Completion Certificate on the date of commencement of RERA. The Ld. Adjudicating Officer has assigned reasons to indicate as to whether his building is an ongoing project and needs registration. The finding recorded is in affirmative. There was little confusion due to incorrect information given by office of the Authority which has raised the misconception about registration of the project. This indicates that the appellant as a developer was not escaping liability to register the project with MahaRERA in terms of Sec. 3 of the Act.


6. The effect of Sec. 35 of RERA provide suo moto action if Authority considers it expedient to do so when it is brought to notice that certain regulations are violated. The approach of the appellant was completing formalities of Occupancy certificate however certain common areas are not yet constructed or developed. Consequently, the observation of the Adjudicating Officer of requirement of registration and eligibility for that purpose is in tune with the Statute. Now the issue is academic as the Appellant has effected registration with MahaRERA on 20.03.2018.
7. The Ld. Counsel for the appellant has said that it was honest and bonafide intention of the appellant to get the project registered but misconception of information led to confusion of not registering it. The Id. Counsel has urged either to waive the penalty of Rs.50,000/- or to reduce it. He says levying of penalty should not be a stigma to the reputation of the appellant.
8. I quite see that non-compliance with mandatory provisions contemplate penal action in terms of sec. 59 of the Act and it was in this situation the Ld. Adjudicating Officer instead of putting it to 10% cost of real est. project, reduce it to Rs.50,000/-. However, since the order / direction are complied with, the penalty imposed of Rs.50,000 shall not be a stigma against the appellant developer.
9. The order under challenge does not call interference, except concession in penalty.

:ORDER:

- 1) No interference in the directions and the order of Adjudicating Officer, MahaRERA except reduction in payment of cost to Rs.15,000/- to be deposited with MahaRERA upto 5th of April 2018 .
- 2) No cost in the appeal.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 21st March, 2018


(K. U. CHANDIWAL, J.)
President,
Maharashtra Revenue Tribunal, Mumbai
& I/c. Maharashtra Real Estate
Appellate Tribunal, (MahaRERA), Mumbai