

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

COMPLAINT No: CC005000000011460

Mr. Basumal Chellaram Laugani & 2 Others

..... Complainants

Versus

M/s. Benchmark Mark Town Planning LLP & 2 others

MahaRERA Registration No. P52100000326

..... Respondent

Coram: Hon'ble Dr. Vijay Satbir Singh, Member 1

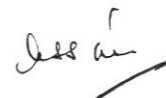
The complainants appeared in person..

Mr. Faizan Rangwala appeared for the respondents.

Order

(23rd July, 2018)

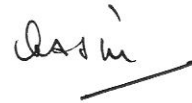
1. The complainant has filed this complaint seeking directions from this Authority to the respondent to refund the booking amount paid by them to the respondent for booking of a flat bearing No. 1004 on the 10th floor in D-wing of building known as "Sirocco Grande", bearing MahaRERA registration No. P52100000326 at Punavale, Dist. Pune.
2. The complainants have stated that in the year 2013 they had jointly booked a flat in the respondents' project and paid an amount of Rs. 36,94,787/- including the charges towards stamp duty, service tax and VAT etc., The respondents had sent draft agreement for sale to the complainants in the year 2013. But, due to some discrepancies, the complainants requested the respondents to make necessary corrections. However, till date the respondents have not taken any initiatives to execute the registered agreement for sale with them though they have paid 67% amount. The



complainants, are, therefore, seeking refund with interest as per the provisions of RERA Act, 2016.

3. During the hearings, the respondents have stated that the flat of the complainants is ready for possession with occupancy certificate and on receipt of all balance payment including the stamp duty registration charges, they were ready to execute registered agreement for sale with the complainants. The respondents have submitted a written undertaking on record of this Authority to that effect.
4. Considering the submissions made by both the parties and after perusing the record, this Authority feels that admittedly, the complainants booked a flat in the respondents' project in the year 2013 and in spite of making the payment of more than 20% amount, no agreement for sale had been entered between them. The same is in violation of the relevant provisions of the MOFA Act. The complainants are, therefore, seeking refund with interest as per the provisions of the RERA Act.
5. In this regard, this Authority feels that there is no date of possession, since there is no agreement for sale executed between the complainants and the respondents. Even in allotment letter also, no date of possession is mentioned and therefore, this Authority cannot hold that the respondents have breached the agreed date of possession. Hence, the complainants cannot seek interest as per the provisions of section-18 of the RERA Act, 2016.
6. Moreover, the flat of the complainants is ready and the respondents are ready to execute the registered agreement for sale with the complainants, in compliance of principles of natural justice, the complainants are entitled to get relief under section 13 of the RERA Act, 2016.

7. In view of these facts, this Authority directs the respondents to execute the registered agreement for sale with the complainants as per the provisions of section 13 the RERA Act, 2016 and the Rules and Regulations made there under within a period of 30 days from the date of this order. In case of failure to execute the agreement within the stipulated period by the respondent, stringent action would be taken against the respondents as per the relevant provisions of the RERA Act, 2016.
8. Since the complainants are disputing the payment mentioned in the draft agreement for sale, this Authority feels that the said issue can not be dealt with and both the parties are liable to observe the terms and conditions mentioned in the allotment letter as the registered agreement for sale has not been executed as on date.
9. With the above directions, the complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member-1, MahaRERA