

MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL UNDER RERA Act

No.AT00600000000206

Udayachal Goregaon Cooperative Housing Society Ltd.

A society registered under the provisions of Maharashtra Co-operative Societies Act, 1960 having its registered Office at Udayachal Building, Aarey Road, Pahadi, Goregaon (East), Mumbai 400 063

.. Appellant

V/s.

1. Shyam Sunder Kedia and Shyam S. Kedia HUF, having their Address at 902A, Plot 24, Sweet Home Building, MHADA Layout, Versova, Behind Jannkidevi School, Andheri (West), Mumbai 40 053.

2. Jaycee Homes Ltd. a Company Incorporated under the Companies Act, 1956 and having their address At Panchratna, Near Panchvati Tower, Panch Marg, Versova, Andheri (West), Mumbai 400 061

..Respondent/s

Maniar Shrivastava for the Appellant.

Respondent absent. None appeared on behalf of the Respondent.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 14th August, 2018
Dictated/Pronounced on: 14th August, 2018
Transcribed on : 16th August, 2018



-:ORAL JUDGMENT:-

1. Heard Ld. Counsel for the Appellant Co-operative Housing Society. Perused the reply of Respondent no.1 dated 25th day of June, 2018 through Laxmi Murli & Associates, Advocates.
2. The Appellant Housing Society basically questions the legality and correctness of the order dated March 5, 2018 of the Ld. Chairperson whereby the Respondent in the Complaint were directed to execute and register Agreement for sale in favour of the complainant as per the provisions of Section 13 of RERA Act.
3. The Appellant Cooperative Housing Society was not party before the Ld. Adjudicating Authorities or the Chairperson, MahaRERA, however by virtue of the impugned order, it has become mandatory for the Respondent to comply with the order of executing and registering the Agreement for Sale which according to the Appellant was not imperative nor they were called upon by having an audience to do so. According to the Ld. Counsel, the contractual liability of the Appellant with the original complainant or the subsequent land purchasers does not surface as whatever was the transaction of the Appellant with Respondent no.2 Jaycee Homes Ltd. was terminated on 16th January, 2018. Ld. Counsel says it would add to multiplicity of litigation.
4. Without further advertizing to the merits advanced by the Ld. Counsel for the Appellant, it is explicit that the orders under challenge of the Chairperson are recorded without hearing and/or participation of the Appellant. The Appellant's rights are involved in the complaint property and consequently the Appellant was and is a necessary and proper party to the complaint proceedings before the RERA Adjudicating Authorities. In the result, the appeal is allowed with following directions:

-: ORDER :-

1. The Order dated March 5, 2018 of the Ld. Chairman, MahaRERA is set aside.
2. The matter is relegated to the Ld. Chairperson, MahaRERA or the Adjudicating Officer and the Authorities shall allow the Appellant Housing Society to make an application for impleadment and

2. thereafter, necessary orders be passed in the complaint, after giving audience to the parties.
3. Till the complaint is decided on merits the Agreement dated 19th March, 2018 executed between Respondent nos. 1 and 2 in furtherance of order dated 5th March, 2018 shall not be implemented.
4. No costs.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 14th August, 2018



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