

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

COMPLAINT No: CC006000000012435

Mr. Sandeep Nagorao Kinake

.....Complainant

Versus

M/s Nirmal Lifestyle (Kalyan) Private Limited

MahaRERA Registration No. P51700003212

..... Respondent

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

The complainant appeared in person.

Mr. Rohit Chavan a/w Mr. Rahul Ektare appeared for the respondent


Order

(5th February, 2018)

1. The complainant has filed this complaint seeking directions from this Authority to the respondent to refund the booking amount in respect of booking of a shop bearing No. GR-10 in MahaRERA registered project bearing No. P51700003212 known as "Victory A" at Kalyan, Dist Thane.
2. This matter was heard today. The complainant has stated that he had booked a shop in respondent's project in the year 2014 for a total consideration amount of Rs 20,47,626/-. The respondent issued allotment letter on 9th November 2014. Although, the complainant has paid an amount of Rs. 13,74,530/- to the respondent so far, yet no registered agreement for sale had been executed. The complainant had cancelled the said booking on 7-12-2015 due to financial constraints. Thereafter, the respondent issued him five cheques amounting to Rs.13,01,222/-. Out of those five cheques, four cheques were bounced due to insufficient funds. Till date he has not received the balance amount of Rs. 10,55,222/- from the respondent. The complainant, therefore, prayed for the direction to the respondent to refund the balance amount to him.
3. The respondent disputed the claim of the complainant and stated that the complainant was not an allottee of the project and had no locus standi to

file the present complainant since the booking had been cancelled on 7-12-2015 i.e. before the commencement of Real Estate (Regulation and Development) Act, 2016. The respondent, therefore, prayed for dismissal of this complainant. However, without prejudice to their rights and contentions, the respondent has submitted a written undertaking on record of this Authority stating that he would refund all the amount to the complainant within a period of four months from the date of the completion of the procedure for cancellation.

4. From the aforesaid arguments, it appears that the cancellation of booking of the complainant's flat been done prior to commencement of RERA Act, 2016. Therefore, the complainant is not the "allottee" as defined under section 2 (d) of the Real Estate (Regulation and Development) Act, 2016. Hence the complainant is not entitled to seek any relief from this Authority as there is no violation/contravention of any provision of RERA Act, Rules and Regulations made there under.
5. However, considering the written undertaking submitted by the respondent, the complaint stands disposed of.


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