

**THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI.**

COMPLAINT NO: CC006000000055891.

Vasant Shankar Jadhav
Dr. Hemant B. Varade
Raju Mahadeo Bana
Ashish Dwarkanath Gurav
Rahul Pandurang Kadam
Naresh Kisan Patil

... Complainants.

Versus

Kailas Chatrapati Patil

...Respondent.

MahaRERA Regn: P51700006977.

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Appearance:

Complainants: In person.

Respondents: Adv.Nilima Sanglikar with
Adv.Vaishali Ugale.

FINAL ORDER

26th October 2018.

The complainants who have booked the flats in the respondent's registered project 'Kailash Heights' situated at Kalwa, District Thane, in the year 2010 - 2011 have filed this complaint to seek direction against respondent for handing over the possession of their flats at the earliest, under Section 19 (3) of Real Estate (Regulation & Development) Act, 2016. They contend that though the commencement certificate has been in the year 2008, the respondent has been constructing 10 floors from last 10 years. He is not paying the interest on their investment though ordered by the Authority. Therefore, they have filed this complaint.



2. The respondent has opposed their claim by contending that initially he proposed to construct ground + 7 floors and after getting the additional FSI he intends to construct 8 to 12 floors. He admits that he was required to hand over the possession to the complainants' booked flats within 18 months of agreement but because of the shortage of sand, collapse of bridge having access to the project, the time taken by the revenue authority for correction for record of rights, sanctioning approval and granting further FSI, he could not complete the project. His amended plan dated 20.07.2017 is now approved. He further contends that financially he is not able to make the construction because of the order passed by the Authority in favour of the complainants directing him to pay the interest on their investments. The financial institutes/banks are not ready to provide him the finance for completing the project. However, he contends that he is ready to refund the complainants' money within 6 months. According to him, his Architect has estimated that at least 510 days are required for completing the project.

3. Heard the complainants in person and learned Advocate of the respondent. Perused the papers. There is no denial of the fact that the respondent obtained the C.C. in the year 2008 and he agreed to hand over the possession of the complainants' flat within 18 months from the agreements for sale executed in the year 2010 - 2011. I have already dealt with the reasons of delay assigned by him and held that they are not genuine reasons. Even if it is taken for granted that he is really prevented by those reasons, he was entitled to get extension of only 6 months at the most under Section 8(b) of the Maharashtra Ownership Flats Act.

4. The real thing is that the respondent appears to be a greedy person. He waited just to get additional FSI for constructing more floors and therefore, he withheld the project.

5. Though the respondent has been making capital of the orders passed by this Authority against him directing him to pay interest on the

V-5

complainants' investments for delayed possession, he could not show the payment of even one rupee under the said order. Not only that, he has not started the construction also. He states in one breath that he is not financially able to carry out the construction because the financial institutes/banks refused to provide him the assistance yet in other breath he shows his readiness to refund the amount of the complainants within the period of 6 months. This clearly shows that he wants to drive away the complainants from the project by hook or crook because of the appreciation in the price of the properties situated in the locality. He is creating the situation to compel the complainants to exit from the project. If he has sufficient money to satisfy the claims of the complainant within the period of 6 months as contended by him, he can use the same money for completing ground + 7 floors within the period of 6 months. If he has real desire to hand over the possession of the complainants' flats, he can complete the ground + 7 floors obtaining part O.C. of that portion of the building and get relieved of the responsibility of contractual obligations.

6. I am cocksure of the fact that the respondent has financial ability to complete the project but deliberately he is not completing it because he wants to drive the complainants out of the project for the purpose of earning huge profits. This mischief must be curbed and controlled with firm hand. Therefore, it is necessary to direct the respondent to complete at least ground + 7 floors within the period of next nine months and to hand over the possession of the complainants' flats to them. I put it on record that when the complaints of the complainants filed under Section 18 have been decided in October 2017, at that time also the respondent made the submission that he would complete the project within one year. He has not put a single brick to make further progress of the project even after passing of one year.

7. In the facts and circumstances of the case, the respondent is given to understand that this Authority shall not hesitate to take action against him

under Section 7 of RERA for cancellation of project registration and the Authority shall take the project under Section 8 of RERA for its development, on his failure to hand over the possession of the complainants' flats within the period of 9 months from this order with O.C. With this, the following order.

ORDER

The respondent shall complete the ground + ~~17~~⁷ floors of the project within 9 months of this order and shall hand over the possession of the complainants' flats with O.C.

The respondent to note that in case of his failure to comply with the order, this Authority shall take action under Section 7 of RERA for cancellation of registration of the project.

The respondent shall pay the complainants Rs. 25,000/- towards the cost of the complaint.

Mumbai.

Date: 26.10.2018.

[Signature]
26-10-18

(B. D. Kapadnis)

Member & Adjudicating Officer,
MahaRERA, Mumbai.

g - correct as 3g of RERA
[Signature]
21/2/18