

MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL UNDER RERA Act

No.AT006000000000126

Deepa Avinash Mansabdar
104, Al Durah Building,
Above Golden Fort Restaurant, Karama,
P.O. Box 66, Dubai, UAE

.. Appellant/s

V/s.

M/s. Runwal Homes Pvt. Ltd.
Runwal & Omkar Esquare, 4th floor,
Off Eastern Express Highway
Sion (E), Mumbai 400 022.

.. Respondent/s

Adv. Ranjit Agashe and Adv. Prathmesh Nirkhe i/b Adv. Namrata A.
Agashe for appellant.

Shri Chirag Kamdar Adv. for Respondent in/b Wadia Ghandy & Co.
for Respondent.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.

Heard on : 18th April , 2018

Dictated/Pronounced on: 18th April, 2018

Transcribed on : 18th April, 2018

:-ORAL JUDGMENT:-

Heard finally.

1. The order dated 18th September, 2017 of the Ld. Chairperson and Member-1, MahaRERA is questioned by the allottee.
2. The appellant under the Booking form dated 08.10.2012 booked for purchase of flat. Thereafter it was followed by Allotment Letter dated 11th March, 2013. The allottee has released 87% of the cost of the flat by cheques. The allottee has also released Rs. 98,651/- towards legal charges and Society formation charges.



3. The grievance from the appellant is, by pointing to a table that virtually there is no variation in the area of the flat which was indicated at the time of booking or allotment letter but in the Agreement the revised / enhanced charges of area is clamped which is not acceptable to the appellant. According to Ld. Counsel indeed there is no major variation of the nature to increase 96 sq.ft. which the appellant as allottee does not desire to receive and pay additionally.
4. Having gone through the order under challenge it is apparent that elaborate audience was given to the applicant as complainant and even the documents were browsed. Whatever was the grievance has been reflected in the order and it answers all clarification from the Respondent / Promoter which are also displayed.
5. So far as objection of additionally collecting Rs.98,651/- is concerned, which according to the Ld. Counsel, the draft agreement refers to Rs.2500/- for formation and registration of the society. One should not be oblivious that at the time of booking and allotment letter the allottee has agreed to bear legal charges and Society formation which amounted to Rs.98,651/-. It is not only that the Society formation charges were saddled and that has been illegally sought to be collected from the allottee. This ground in the fact situation deflates.
6. The increase in the area to which several times doubt is raised by the Ld. Counsel for the allottee and additionally canvassed that his architect may be permitted to cause actual measurement and then the size of the flat needs to be ascertained needs simply to be discarded. It is a matter of record, the promoter has received Occupation Certificate, the flat is ready in all respects. It is merely to be occupied by the allottee. The measurements indicated in Column 3 at Page 13 of the appeal memo are naturally in consonance to the details mentioned in Occupation Certificate. Minor variation in the size of flat should not be to the detriment of Promoter. He cannot be asked at the whims of allottee to demolish building to suit requirement of allottees.
7. It cannot be said at this stage that the area agreed has been unilaterally modified or reduced. It was as per the plans, the minimum area has been multiplied / increased. It therefore cannot be said that there is illegal or incorrect calculation.
8. The third point raised is that of the collection of service tax which according to the appellant was 3.09% at the material time of making payment and the promoter has charged 3.71 % and collected accordingly. If there is variation in remittance contrary to law, needless to indicate the promoter will give its set off to allottee.




9. The accusations in the appeal memo against the Authority are uncalled for, after thought and hence discarded. No merits.

-:ORDER:-

The appeal is disposed with no costs.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 17th March, 2018


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