

BEFORE THE MAHARASHTRA ESTATE REGULATORY AUTHORITY,
MUMBAI
COMPLAINT NO. CC006000000000827

JALAJA MENON Complainant
V/s

AYYAS ABDUL SAYYED
Spanish Residency - Naigaon ... Respondent

MahaRERA Reg. No. P99000001765

CORAM: Shri Gautam Chatterjee, Hon'ble Chairperson.

Dr. Vijay Satbir Singh, Hon'ble Member.

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

FINAL ORDER

13th DECEMBER 2017

The Complainant alleges that she booked Row house No.1 in Cluster No.6, Spanish Residency situated at Naigaon. On the cancellation of the allotment, the Respondents were liable to refund her money. A settlement was arrived at between the parties and respondents agreed to refund Rs.19,50,000/- by issuing post-dated cheques. The respondents stopped the payment of the cheque dated 19.09.2017 of Rs.3 lakhs and also refused to honour the other cheques. It is her allegation that this practice adopted by the Respondents is unfair practice and it also amounts to a fraudulent act which attracts Section 7 (1) (c) & (d) of Real Estate (Regulation & Development) Act, 2016.

2. The Respondents have pleaded not guilty. However, they have not filed any explanation/reply.



3. Since this matter arises out of Section 7 of the Act, it is taken before the full bench of MahaRERA. Both the parties have been heard. The Learned Advocate of the Respondents submits that the settlement was arrived at under coercion of the Police in the Police Station and, therefore they issued the cheques. Hence, the Respondents requested to absolve them from honouring the cheques.

4. After considering the submission of the Respondents carefully, it has come to the notice of MahaRERA that there is no dispute between the parties that Rs.19,50,000/- are due from Respondents to the complainant and therefore the Respondents agreed to repay it by issuing post-dated cheques.

5. Feeble attempt has also been made by the Respondents to show that on the cancellation of booking, they are entitled to forfeit some part of the amount paid by the Complainant. The Authority does not think it fit to reopen the issue of Respondents' liability as the Respondents themselves have arrived at the settlement to pay the Complainant Rs.19,50,000/-.

6. It is very unfortunate that even after arriving at the settlement and after issuing post-dated cheques, the Respondents want to avoid their liability to honour the cheques on one ground or the other. It also becomes clear from the facts and circumstances of the case that the matter was referred to the Police and then mostly in order to avoid the prosecution and arrest, the Respondents agreed to repay the money. Now they cannot take a somersault and contend that they were under coercion when they settled

the matter. They have not complained to any superior officer of police that they were compelled and forced to settle the dispute and issue the cheques. Therefore, MahaRERA does not find any substance in this submission.

7. The practice of issuing post-dated cheques and dishonouring them brings disrepute to the housing industry. Because of a few black sheep, the entire industry suffers and therefore this practice will have to be condemned and handled sternly. The same thing has happened in this case too. MahaRERA is of the opinion that this amounts to unfair practice and fraudulent act also. Section 7 of Act empowers the Authority to revoke the Registration of project if such unfair practice or indulgence of the promoter in fraudulent acts are noticed. We feel, another opportunity may be given to the Respondents to honour the cheques issued by them and to warn them that if they indulge in such unfair practice or fraudulent acts, MahaRERA shall not hesitate to take stern action against them including the action of revocation of registration of their project. With this, the following order:

ORDER.

1. The Respondents shall hand over a Pay order of Rs.3 lakhs to the Complainant within 7 days of this order as agreed by them.
2. The Respondents are directed under Section 7 (3) of the Act that they shall honour the post-dated cheques dated 15.02.2018; 25.02.2018; 05.03.2018; 20.03.2018 of Rs.3,90,000/- each and of Rs. 90,000/- dated 27.03.2018.



3. The Respondents are warned not to indulge in unfair practices and in any fraudulent acts henceforth.
4. The respondents to note that if they repeat any such acts, the Authority shall take necessary steps in accordance with law for revocation of their project.

Mumbai.

Date: 13.12.2017.



(Bhalachandra Kapadnis)
Hon'ble Member & Adjudicating Officer,
MahaRERA



(Dr. Vijay Satbir Singh)
Hon'ble Member,
MahaRERA



(Gautam Chatterjee)
Hon'ble Chairperson, MahaRERA