

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC00600000001386

Sangeeta and Dinesh Mehta

... Complainants

Versus

Hemant Bhanushankar Vyas
Nandraj Developers Pvt Ltd
MahaRERA Regn: P51900012122

... Respondents

Coram

Hon'ble Shri Gautam Chatterjee, Chairperson

23rd November, 2017

Order

Complainants were represented by Mr.Dinesh Kumar Mehta

Respondent was represented by Mr. V.R.Randive, Adv, Randive and Kadam Associates

1. The complainants have filed this complaint stating that they have entered into a registered agreement for sale dated December 17, 2012 to purchase an apartment bearing No. C/802 of Royal Residency in Respondents' above mentioned Project. The complainants alleged that the date of possession was on or before March 31, 2014, but till date the complainants have not received possession of the said apartment.
2. Further, the complainants alleged the respondents have not disclosed true and correct information to MahaRERA while registering the project. Specifically, the complainants alleged the respondents have created a collateral security towards SREI Infrastructure (*hereinafter referred to as the said collateral security*) and that no documents to that effect have been disclosed by the respondents in their MahaRERA registration.
3. The complainants, therefore, pray the respondent be directed to :
 - a) pay interest at the rate of 18% p.a. to the complainant on the sum paid towards delay in handing over possession for period beginning March 31, 2014 till



handing over possession of the said apartment (complainants placed reliance on the MahaRERA Order dated October 5, 2017, CC/006/382)


- b) disclose the entire transaction pertaining to the collateral security and the names of the apartment owners in the said Project along with documents executed by them and the respective NOC from SREI Infrastructure
 - c) pay a sum of INR 50,000 per month towards loss of rental income and payment of rent
 - d) pay a sum of INR 25,000 towards cost of the present complaint as compensation for trauma, loss of time, hardship caused and notional losses, legal fees etc.
 - e) register the society within a period of one month as more than 51% of the apartments have been sold
4. On the first date of hearing, on November 18, 2017 the advocates for the respondent stated that :
- a) since the agreement executed between the parties is prior to the Real Estate (Regulation and Development) Act 2016, the said agreement will be governed by the Maharashtra Ownership Flat Act, 1963 and therefore, the said agreement does not fall within the jurisdiction of MahaRERA
 - b) the building is almost completed and the respondents have applied for OC to the competent authority and that possession of the said apartment will be handed over by January 31, 2018
 - c) the respondents in their MahaRERA registration have uploaded the Declaration in Form B and encumbrance certificate wherein the charge of the property has been disclosed and no information has been suppressed.
5. The complainant argued the disclosures made by the respondent pertaining to the said collateral security are incomplete.
6. The MahaRERA Order cited by the complainant's advocate has been stayed by MahaRERA since the Maharashtra Real Estate Appellate Tribunal is not in place. Moreover, the order quoted by the complainant is specific to that particular case and, therefore, cannot be relied upon while disposing this complaint. The revised date of possession for an ongoing project has to be commensurate with the extent of balance development as per Rule 4 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 and therefore, the respondents are hereby directed
- (a) to handover possession of the said apartment to the complainant before the period of January 31, 2018, failing which the respondents shall be liable to pay interest to the complainant from February 1, 2018 till the actual date of possession, on the entire amount paid by the complainant to the respondents. The said interest shall be, as prescribed under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of



Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017.

- (b) to upload factually correct and complete information pertaining to the said collateral security on the MahaRERA website within 48 hours from the date of this Order. However, provisions of the Real Estate (Regulation and Development) Act 2016 do not provide for disclosures to be uploaded by the promoter pertaining to the names of the apartment owners in the said Project.
- (c) to initiate the procedure for formation of society within 30 days from the date of this order.

7. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA