

OBEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO: CC005000000000235

Ravindra Dinkar Patankar.

...Complainant.

V/s

Babasaheb Bhagwan Atkire .

(Ranjeet Property Developers(I) Pvt. Ltd.)

.... Respondents.

MahaRERA Regn. : P52100007249

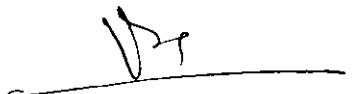
Coram: Hon'ble Shri B.D. KAPADNIS.  
(Member & Adjudicating Officer)

**Final Order.**

21<sup>st</sup> November 2017

The complainant, by this complaint seeks the refund of the amounts paid to the respondents on account of agreement of sale of flat no. E-01 of respondents' Platinum Park Project situated at Wadhachiwadi Road, Undri, Pune.

2. The complainant complains that on booking of the above numbered flat, the respondents agreed to deliver its possession on or before 30<sup>th</sup> June 2015 but they failed to deliver the possession till the date of the complaint. Therefore, he seeks the refund of Rs.15,87,690/- with interest and compensation under section 18 of Real Estate (Regulation and Development) Act, 2016. The respondents have pleaded not guilty. The respondents have admitted that the complainant booked the flat as contended by him. However, they contend that they are not at fault for the delay. According to them, Asstt. Director of Town Planning, Pune passed N.A. order of 15.05.2012. They wanted to construct 11 floors in E-Wing for which the environmental clearance certificate was required. Hence, they

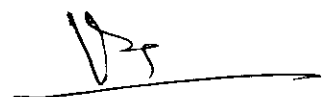


applied for the same on 06.02.2013. Pending that application, in March 2015 Asstt. Director of Town Planning, Pune was replaced by Pune Metropolitan Development Authority (PMRDA) as the sanctioning authority for all projects situated outside the limits of Pune Municipal Corporation. The State Level Expert Appraisal Committee directed them to submit a plan for approval before sanctioning authority i.e. PMRDA. The respondents approached PMRDA which sanctioned only P + 6 floors due to height restrictions. However, the PMRDA finally approved the building plans on 03.12.2016 sanctioning P+11 floors for E-Wing under some conditions. Thereafter they submitted the approved plans to State Level Expert Appraisal Committee, Environment Department, Government of Maharashtra for obtaining necessary environmental clearance which is still awaited. They contend that because of these reasons which were beyond their control, they could not complete the project in time and deliver the possession of the flat to the complainant on the specified date mentioned in the agreement. They further contend that if the complainant wishes to withdraw from the project, they are ready to refund principal amount received from the complainant towards part consideration but request to grant 6 equal monthly instalments for payment thereof.

3. Does the complainant prove that he is entitled to get his amount back with interest from the respondents on their failure to deliver the possession of flat no. E-6 on or before 30<sup>th</sup> September 2015 ? , is the only point that arises for consideration. I answer it in affirmative for following reasons.

**Reasons:**

4. Section 18 gives an option to allottee to withdraw from the project and demand his amounts back with interest, if the promoter fails to give the possession of the flat on the date specified in the agreement. In this case, there is no dispute between the parties on the point that the



respondents agreed to deliver the possession of the flat on 30<sup>th</sup> June 2015 but till the date, the project is incomplete and the possession has not been given. In this situation, the complainant withdraws from the project and claims refund of amount paid by him to the Respondent.

5. The complainant has produced the statement of payments which shows that he paid Rs. 1,00,000/- towards booking amount on 27.10.2012 . He paid Rs.8,61,330/- on 30.10.2012 and Rs.32,980/- on 29.01.2013. He paid Rs.5,93,380/- on 28.03.2013. Thus, he paid the respondents Rs.15,87,690/- The respondents admit that they received Rs.15,87,690/- from the complainant. The complainant is entitled to get these amounts with interest at the rate of marginal cost of lending rate of interest of SBI which is currently 8.15 + 2 % from the dates of respective payments. In addition to this, he is also entitled to get Rs.20,000/- towards the cost.


6. So far as causes of delay mentioned by the respondents are concerned, the respondents themselves contend that on 15.05.2012 they had only N.A. order. They started to collect the instalments of consideration from the complainant from time to time as mentioned in the above para. When they did not have the approvals of the Competent Authority for making the construction or when they did not have the environmental clearance certificate, they were not entitled to recover any money from the allottee. They were running their own risk and therefore only because some delay is caused for one reason or other for getting approvals, they cannot blame the system as such to seek the exemption from the payment of interest. I have taken the broad view and even after taking the fact into consideration that the competent authorities have not acted as swiftly as they were expected to act, the respondents at the most be exempted from the complainant's claim of compensation, with this, I pass the following order.

## ORDER

1. The respondents shall refund the amounts mentioned in Para 5 of this order with interest at the rate of 10.15% p.a. from the date of their payments.
2. The respondents shall pay the complainant Rs. 20,000/- towards the cost of complaint.
3. The charge of these amounts shall be on complainant's booked flat till his claim is satisfied.
4. The complainant shall execute the necessary documents of cancellation of booking of the flat at the Respondents' cost on satisfaction of his claim.

Mumbai.

Date: 21<sup>st</sup> November 2017.

  
21.11.17

( B.D. Kapadnis)  
Member & Adjudicating Officer,  
MahaRERA, Mumbai.

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

**COMPLAINT NO. : CC005000000000235**

Ravindra Dinkar Patankar

...Complainant

Versus

Babasaheb Bhagwan Atkire  
(Ranjeet Property Developers Pvt. Ltd.)  
Maha RERA Regn. : P52100007249

... Respondent

**APPLICATION FOR STAY OF  
ORDER.**

**MAY IT PLEASE YOUR HONOUR:**

On behalf of above named Respondent it is most respectfully submitted and humbly prayed as under :

That the above stated Complaint was disposed on vide Order dated 21/11/2017 passed by Shri. B.D. Kapadnis. Copy of the Order dated 21/11/2017 is marked and annexed herewith as **Exhibit- A**. In the said Order the Respondent was inter alia directed to refund certain amounts to the Complainant with interest.

That the Respondent is willing to exercise his Right to Appeal to the Appellate Tribunal U/s. 44 of The Real Estate (Regulation and Development) Act, 2016. Further vide Notification dated 28/12/2017 the Government of Maharashtra has established the Appellate Tribunal

under The Real Estate (Regulation and Development) Act, 2016. However it is informed by the RERA Office that the procedure for Appeal to the Appellate Tribunal is yet to be determined and the same is likely to be done in the near future.

That since the Respondent is unable to Appeal in the light of the above circumstances, it is prayed as under:

- a) To stay the Order dated 21/11/2017 passed in the above Complaint.

And for this act of kindness, the Respondent shall ever pray.

Place : Mumbai

Date :

*Bakshi*  
Respondent.

0  
Execution of the order  
is stayed till the end  
of appeal period.

*[Signature]*  
10.1.18