

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

**Complaint No.CC00500000023333**

1. Mr. Milind Prabhakar Bade
  2. Mrs. Priya Milind Bade
- .. Complainants.

**Versus**

M/s. Skywards Ashtika Lifestyle .. Respondents.

**MahaRERA Project Reg. No. P52100018529**

**Coram : Shri. B.D. Kapadnis  
Member-II, MahaRERA.**

**Appearance: -**

Complainants: Adv. Mr. Amit Patil.

Respondents: Adv. Mr. P.N. Prabhale.

**FINAL ORDER**

(09.01.2020)

The complainants have booked Flat No. 305 in respondents' registered project "Centropolis" situated at Shivajinagar, Bhamburda, District Pune. The respondents agreed to hand over the possession on or before 31.03.2017 with grace period of 2 months. Thus, they were liable to hand over the possession of the flat by 31.05.2017. The respondents failed to deliver the possession on agreed date. Hence the complainants withdraw from the project and claim refund of their amount with interest. They do not press for compensation.

2. The respondents have filed their reply by pleading not guilty. They contend that while registering the project with MahaRERA, they have revised the date of possession as 31.03.2020 and therefore, the complaint is not maintainable because that date is not crossed. They further contend that

  
\_\_\_\_\_

as per clause 9 of the agreement for sale, the respondents have paid Rs.45,000/- p.m. to the complainants from May, 2017 till July, 2019 amounting to Rs.9,40,000/- for delayed possession. Hence, they request to dismiss the complaint.

3. I have heard the learned advocates of the parties.

4. The agreement for sale shows that the agreed date of possession is 31.03.2017 with grace period of 2 months, so it comes to 31.05.2017. The respondents have not handed over the possession of the flat on agreed date. Hence the complainants have exercised their right to withdraw from the project and claim refund of their amount with interest. I find that they are entitled to get this relief.

5. The complainants have filed their payment statement marked Exhibit 'A'. The receipt of amount mentioned therein have not been disputed by the respondents. I find that the complainants have claimed Rs.6,30,900/-, the amount of stamp duty paid on 13.02.2016. As per Sections 47 and 48 of the Maharashtra Stamp Act, 2015, the stamp duty can be refunded on cancellation of the agreement without taking possession within 5 years of its registration. Therefore, the complainants are entitled to seek refund of the stamp duty from Sub Registrar's Office as the period of 5 years from the registration of the agreement has not lapsed. Hence, I hold that the complainants are not entitled to get its reimbursement for the time being. However, I clarify that if the complainants' claim is not satisfied within the period of 5 years of the registration of an agreement, then the respondents will be liable to reimburse the stamp duty amount.

6. I find that the respondents have defaulted in handing over the possession of the flat on agreed date. Therefore, the complainants will have to be restored to the position which they held before booking the flat. In other words, though the amount of taxes and registration charges that have been collected by the Government, the respondents are liable to reimburse



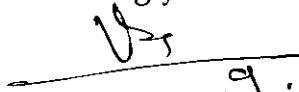
---

them. The complainants are also entitled to Rs. 20,000/- towards cost of the complaint. The complainants are entitled to get prescribed interest on the amount mentioned in payment statement marked Exhibit 'A', except the stamp duty, from the dates of their payment till refund/reimbursement at the prescribed rate of interest, which is 2% above the SBI's highest MCLR, it is currently 8.2% p.a.

7. The respondents shall make the payment, as per complainants' entitlement as discussed. However, the respondents shall be entitled to get set off, of Rs.9,40,000/- paid for delayed possession from May, 2017 till July, 2019. Exh. A shall form the part of the order. The charge thereof shall be on the booked flat till satisfaction of the complainants' claim. The complainants shall execute the deed of cancellation of the agreement for sale on satisfaction of their claim and the respondents shall bear its cost.

8. The complaint stands disposed off accordingly.

Camp at Pune  
Date :- 09.01.2020

  
( B. D. Kapadnis )  
Member-II, MahaRERA, Mumbai.

12

Complaint No

CC00500000023333

*Bank A  
Member D*

Name of Complainant

Milind Prabhakar Bade

Priya Milind Bade

Payment Statement

Flat Consideration 1.05.13.000/-

Sr. No.	Date	Amount (Rs)	Purpose				Cheque No. with bank name
			Agreement/Flat	Service Tax	VAT	Stamp duty	
1	12-09-2015	5,00,000/-	3,79,954/-	15,916/-	105130		434537, ICICI Bank Mumbai branch
2	20-11-2015	35,47,834/-	33,99,937/-	1,47,897/-	0		333278, ICICI Bank, Mumbai branch
3	20-11-2015	32,41,045/-	32,41,045/-	1,40,985/-	0		333279, ICICI Bank, Mumbai branch
4	20-11-2015	34,76,137/-	34,76,137/-	1,51,212/-	0		333280, ICICI Bank, Mumbai branch
5	13-02-2016	17,663/-	16,927/-	736/-	0		221724, ICICI Bank, Mumbai branch
6	13-02-2016	31,780				31,780	e-chalan - Rs 30000; Cash - Rs 1780
7	13-02-2016	6,30,900/-				6,30,900/-	MH007236672201516E
Total Paid		1,17,37,556/-	1,05,13,000/-	4,56,746/-	1,05,130/-	6,30,900/-	31,780/-

*Milind Bade*  
Adv. for the Complainant  
Pune / Date- 18/12/2019

*Priya Bade*  
Complainant

*No dispute*  
*Priya Bade*  
Adv. for Respondent  
09/01/2020