

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

COMPLAINT NO. CC006000000044399

Mr. Ravi Tanaji Chavan & Mr. Ajay Tanaji ChavanComplainants

Versus

M/s. Nirmal Lifestyle (Kalyan) Pvt. Ltd.Respondents

MahaRERA Registration No. **P51700003538**

Coram: Hon'ble Dr. Vijay Satbir Singh, Member-1

Adv. Samir Suryavanshi appeared a/w Complainant.

Adv. Vaishali Mohite and Rahul Ektare appeared for the respondent.

Order
(27th July 2018)

1. The complainants above named has filed the aforesaid complaint seeking directions of this Authority to the respondent for refund of the amount paid by him to the respondent with compensation in respect of booking of Flat nos. 604 & 603 in the Building known as 'Platano F' bearing MahaRERA Registration No. P51700003538 at Kalyan, Dist. Thane.
2. The matter was heard on 20-07-2018, when both the parties were directed to file their respective written submissions. Accordingly, the complainants have filed their written submission on 23-07-2018. The same is taken on record. However, the respondent did not file his say.
3. The complainants have argued that they have booked two flats in the respondent's project in the year 2012. At the time of booking the respondent has agreed to hand over the possession of the flat to them

by December, 2016. However, till date the respondent has not handed over possession of the flats to the complainants though the complainants have paid substantial amount to the respondent. Now, while registering the said project with MahaRERA the respondent has extended the possession date from December, 2016 to 31st December 2021 and the same is not acceptable to the complainants. Hence the complainants are seeking refund with interest and compensation for violation of Sections 12, 13 and 14 of MahaRERA Act.

4. The respondent disputed the claim of the complainants and stated that the present complaint filed under Sections 12, 13 and 14 of RERA Act is not maintainable since there is no violation of any terms and conditions of the provisions of RERA Act and rules and regulations made thereunder, by the respondent. Even, there is no agreed date of possession since there is no registered agreement for sale executed between the complainants and the respondent and even in the allotment letter, no date of possession is specified and therefore the complainants are not entitled to seek compensation as prayed for. However, the respondent has submitted that he will refund whatever amount is paid by the complainant without any interest.
5. This Authority has examined the submissions made by both the parties and also perused the relevant provisions of RERA Act. In the present case, admittedly there is no registered agreement for sale executed between the complainants and the respondent which specifies the date of possession. Moreover, in the allotment letter also, no date of possession is mentioned. The complainants have not submitted any cogent documentary proof to show the agreed date of possession for handing over the flat to them. Therefore, the complainant is not entitled to any relief under Sec. 12 and 14 of the RERA Act, 2016. The homebuyer can seek relief under Section 12, if the promoter commits any breach of the advertisement or prospectus and if the allottee sustains any loss or

damages due to such incorrect and false statement. Section 14 can be invoked if the promoter fails to complete the development of the project as per the sanctioned plan and layout plan and specifications approved by the Competent Authority. In the present case, the complainants have not specified their claim and proved any breach by the respondent in the aforesaid provisions of law and therefore they are not entitled to seek compensation as prayed for in this complaint.

6. In the light of these facts, it becomes clear that there is no merit in this complaint. However, in compliance of principles of natural justice, the respondent is directed to refund the total amount paid by the complainants towards booking of the two flats in the respondent's project, within a period of 3 months from the date of this order.
7. With these directions, this complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member-I, MahaRERA