

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

Complaint No.CC005000000011475

Rohit Ashok Deshkar

.. Complainant

Versus

Suraj Raman Bhujbal

.. Respondent

Coram : Shri M.V. Kulkarni

Hon'ble Adjudicating Officer

Appearance :

Complainant : In person

Respondent : Exparte

FINAL ORDER

07-09-2018

1. The Complainant who had booked flat with the respondent/developer seeks withdrawal from the project and refund of the amount with interest as the respondent has failed to deliver possession of the flat as per agreement.
2. The complainant has alleged that he booked flat No.803 in 'B' building in the project of respondent admeasuring 598 sq.ft. plus 180 sq.ft. attached terrace for a consideration of Rs.30,99,200/-. Agreement was executed with the respondent on 12-04-2013. The respondent had agreed to delivery possession within a period of 18 months since

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execution of agreement. The complainant has paid in all Rs.36,51,750/- The respondent has failed to deliver possession as per agreement, hence the complaint.

3. The respondent has not remained present and the complainant has proceeded exparte against respondent.
4. Following points arose for my determination. I have recorded my findings thereon for the reasons given below.

POINTS

FINDINGS

- | | |
|--|---------------------|
| 1. Has the respondent failed to deliver possession of flat to the complainant as per agreement without circumstances beyond his control? | Yes |
| 2. Is the complainant entitled to the reliefs claimed? | Yes |
| 3. What order? | As per final order. |

REASONS

5. Point No.1 & 2: The complainant has placed on record copy of the agreement dated 12-4-2013. The name of project is "Forest Mist" at Hadapsar in Pune. Flat booked was No.803 in 'B' building. The area is 598 sq.ft plus 180 sq.ft. terrace. The price agreed was Rs.30,99,200/-. As per clause-IX of

7.9 2018

the agreement possession was to be handed over within 18 months since execution of agreement. Thus the agreed date of delivery of possession was October, 2014. The complainant alleged that respondent has not given possession and complained that he breached the agreement. There is no challenge to this contention from the respondent.

6. The complainant averred that he has paid Rs.36,51,740/- The price mentioned in the agreement is Rs.30,99,200/- plus development charges and VAT. The complainant has also placed on record his accounts statements of ICICI bank Ahmedabad. He shown is as resident of Nagpur. Heading has been put "Self Contribution Proof". There is an entry about payment to respondent of Rs.1,00,00/- on 20-3-2013, Rs.4,86,550/- on 26-3-2013, Rs.1,96,204/-.Corresponding receipts executed by respondent are placed on record. Accounts statement of Axis Bank is placed on record. Home loan Rs.28,75,666/- is shown to have been disbursed to complainant. It appears that the complainant paid Rs.2,42,500/- stamp duty, Rs.30,000/- registration charges. This amount is shown as paid to the respondent but the complainant can claim back stamp duty after withdrawing


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from the project. I therefore answer point No.1 & 2 in the affirmative and proceed to pass following order.

ORDER

1. The complainant is permitted to withdraw from the project and respondent shall repay Rs.36,51,740/- to the complainant by deducting the stamp duty which can be recovered by the complainant, together with interest @ the State Bank of India Highest Marginal Cost of Lending Rate plus two percent per annum prevailing as on date i.e., $8.65\% + 2\% = 10.65\%$ from the date of payment.
2. The complainant shall execute cancellation deed at the cost of respondent.
3. The respondent shall pay Rs.25,000/- as costs to the complainant.
4. Charge of the above amounts shall be kept on the flat booked by complainant.
5. The respondent shall pay above amount within 30 days from the date of issue of this order.

Pune
Date :- 07.9.2018


(M.V.Kulkarni)
Adjudicating Officer,
MahaRERA