

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

Complaint No.CC0050000000010854

Nitin Bhaskar Pandit

R/at Flat No.3, Bldg. No.A-12,
Ganga Village Society,
Handewadi Road, Opp. Ganraj Hotel,
Hadapsar, Pune-411 028.

.. Complainant

Versus

Bhujbal Brothers Construction Co.

A Registered Partnership Firm,
Having It's Registered Office at
Bhujbal House, Damodar Estate,
Wing No.1/A, Bhujbal Baug,
Survey No.28, Karvenagar,
Pune-411 052.

Through it's Partners

1. Mr. Suraj Raman Bhujbal
 2. Mr. Ranjit Jagannath Bhujbal.
- R/at Bhujbal Bungalow, Survey No. 160/1,
Kothrud, Pune-411 038.

.. Respondent

**Coram : Shri S.B.Bhale
Hon'ble Adjudicating Officer**

**FINAL ORDER
13th APRIL, 2018**

- 13/4
1. It is alleged by the Complainant that he along with his wife Mrs. Sunita Pandit, being co-owner, had booked a residential flat No. 104 on the 1st floor of Building No. B from Ganga Village Society, Hadapsar, Tal. Haveli, District Pune. The date of Agreement of the booking of the flat was dated

06.05.2013. The project wherein the flat is booked is known as "Forest Mist". In terms of the agreement, possession of the booked flat was to be handed over on or before 30th October, 2014. The total cost of the booked flat was Rs. 41,58,548/-, out of which he has paid an amount of Rs. 38,20,990/ inclusive of all the taxes, stamp duty, registration etc. till the date. As the process of handing over possession of the booked flat is deferred and delayed for longer time, he do not want to continue with the project. Therefore, he has claimed relief of refund of the entire amount which he has paid to the Respondent with interest and compensation under the provisions of Section 18(1)(b) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the **RERA**).

2. It is to be noted that the Respondent remained absent despite of service of notice, so the order of exparte was passed against it on 28.03.2018 and today's date was given for final hearing.
3. Heard the Complainant. Respondent could not be heard being remained absent. Perused the papers filed on record.
4. In the aforesaid facts and circumstances of the case, following points arise for determination and I am going to record my findings thereon as under.

POINTS

FINDINGS

- (1) Whether the complainant is entitled to claim refund of the amount paid

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by him under the agreement to the Respondent along with interest and Compensation under the provisions of RERA Act ? In the Affirmative

(2) What order ? As per final order.

REASONS

5. The Complainant himself submitted that he has paid the entire amount to the Respondent towards the cost of booked flat on time to time to the sum of Rs. 38,20,990/- inclusive of stamp duty, registration charges, etc.. To prove the aforesaid payment, he has filed on record total 8 Xerox copies of receipts of cheques passed by the Respondent. He has also filed on record statement of account at **Exh. "A"**. On perusal of the said extract, it is seen that the entire amount alleged to have paid by the Complainant from 04.4.2013 to 22.04.2014 was Rs.38,20,990/- inclusive of stamp duty, registration charges, taxes, etc. to the Respondent. What is seen that the handing over possession of the booked flat is delayed inordinately and i.e. more than 4 years. Considering this very fact and the negligence of Respondent, I am of the opinion that there is no any otherwise reason to accept the claim of the Complainant.
6. The amount paid by the Complainant towards the stamp duty appears to be Rs. 2,43,600/- and Rs. 30,000/- as registration charges. No doubt about it that the Complainant can reimburse the amount of the stamp duty to some extent or in proportionate. In any case, the amount paid towards the stamp duty cannot be fully reimbursed. Even after

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deducting the amount of stamp duty, the average amount which the Respondent is liable to pay to the Complainant comes to Rs.50,000/- by way of loss of reimbursement of stamp duty. It is submitted by the Complainant that the amount of stamp duty Rs. 2,43,600/- and Registration Charges Rs. 31,280/- is bore by the Respondent. Thus minusing the aforesaid amount of RS. 2,43,600/- + Rs.31,280/-, the actual amount paid by the Complainant to the Respondent comes to Rs. 35,46,080/- + Rs.50,000/- towards the loss of reimbursement of the stamp duty. Thus the Complainant is to receive the entire amount of Rs. 35,96,080/- from the Respondent.

7. In addition to that, the Complainant is claiming the interest on the entire amount paid by him to the Respondent. The interest on the amount paid by the Complainant to the Respondent is to be calculated as per the provisions of the RERA and the Rules made thereunder. As per the MCLR of State Bank of India, the rate of interest is currently 8.05% + 2%. Thus the Complainant is entitled to receive the entire amount which the Respondents have received i.e. Rs. 35,96,080/-. The Complainants are entitled to receive the aforesaid amount of Rs. 35,96,080/- with simple interest @ 10.05% p.a. since the date of making the payments from time to time till the realisation of the same. In addition to that, the Complainant is entitled to receive the cost of the litigation to the sum of Rs. 10,000/- from the Respondent.
8. With this and for the foregoing reasons and facts and circumstances of the case, I proceed to pass the following order by answering Point Nos.1 in the affirmative.

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ORDER

- (1) The Respondents are directed to pay the amount of Rs. 35,96,080/- to the Complainant along with simple interest @ 10.05% p.a. from the date of receipt of payments from time to time till realisation of the entire amount.
- (2) The Respondent is also directed to pay cost of Rs.10,000/- of this litigation.
- (3) Charge of the entire amount be kept on the booked flat No. 104 on 1st floor in B Wing by the Complainant in the project named Forest Mist, situated at S.No. 64, Hissa No.1/1, 1/5, 2/6 of village Hadapsar, Tal. Haveli, District Pune till the realisation of the entire amount.
- (4) The Respondent is directed to pay the aforesaid amount as ordered to the Complainant within one month since the date of this order.
- (5) On realisation of his claim, the Complainant shall execute the Deed of Cancellation of Agreement in favour of the Respondents at the Respondent's cost.

Pune
Date :- 13.04.2018

(S. B. Bhale)
Adjudicating Officer,
MahaRERA, Pune

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