

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

COMPLAINT No: CC00600000023135

M/s. Paradigm Ambit Buildcon ..... Complainant

Versus

Mrs. Falguni Shah & Mrs. Mira Shah

MahaRERA Registration No. P51800000204

..... Respondents

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

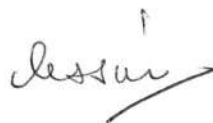
Adv. Chetan Raithatha appeared for the complainant.

Mr. Shah, CA appeared in person for the respondents.

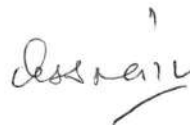
**Order**

(31<sup>st</sup> May, 2018)

1. The complainant who is promoter of the MahaRERA project known as "Paradigm Ananda Residency", bearing MahaRERA registration No. P51800000204 at Shimpoli, Borivali (West), Mumbai has filed this complaint against the respondents seeking following reliefs from this Authority.
  - a. To direct the respondents to execute and register the Deed of Cancellation in respect of the said Flat in Ananda Residency project.
  - b. To direct the respondents to accept Rs. 43,45,000/- (Rupees Forty-Three Lakhs Forty-Five Thousand only) towards the refund of the part consideration received from the respondents and register Deed of Cancellation.
  - c. Any other relief as this Hon'ble authority may deem fit and proper.



2. The complainant has stated before this Authority that the respondents have purchased a flat bearing No. 1801 admeasuring 61.90 sq. mtr. carpet area on the 18th Floor of 'C' wing of the said building under construction known as "Ananda Residency" vide an agreement for sale dated 17th October, 2017, for a total consideration amount of Rs. 86,00,000/- to be payable as per the Annexure 'L'.
  
3. The complainant further stated that at the time of execution of the agreement, the respondent has paid an amount of Rs. 50 lakhs. However, out of the said total amount of Rs. 50 lakhs, a sum of Rs. 2,25,000/- was paid towards service tax by the complainant. The total consideration, therefore, received by the complainant was only Rs. 47,75,000/- only. Further, the respondents have made default in slab wise payment as provided under the agreement for sale on or before 14<sup>th</sup> November, 2017. Through several letters, the complainant called the respondents to pay the outstanding dues. But, no payment was made by the respondents. Therefore, as per the clause No. 4.1 of the said agreement for sale, the complainant is entitled to terminate the said agreement and also to forfeit a sum equivalent upto 5% of the purchase price as receivable by the complainant. The complainant is, therefore, seeking a direction from this Hon'ble Authority directing to execute and cancel the Deed of Cancellation in respect of this complaint and to receive the aforesaid refund by the respondents.
  
4. The respondents disputed the claim of the complainant and stated that they have purchased the said flat for a total consideration amount of Rs. 86 lakhs and out of which, till date he has paid an amount of Rs. 80 lakhs to the complainant. The complainant has not disputed the said payment made by the respondents. The respondents further argued that at the time of booking itself they have paid huge amount of Rs. 50 lakhs



to the complainant with a condition that the remaining payment can be done on possession.

5. After examining the arguments of both the parties, it becomes clear that the respondents have already paid over 90% consideration money to the complainant towards the cost of the said flat. As per the registered agreement for sale, the agreed date of possession of the flat by December 2018 and now, while registering the said project with MahaRERA, the complainant has extended that to December 2019. Moreover, the flat of the respondents is not yet ready for occupation and therefore, the complainant/promoter cannot seek the balance amount of the said flat. Even the subsequent payment made by the respondents after booking was duly accepted and credited on account of the complainant. The agreement for sale drafted by the respondent does not carry any schedule of payment as required in the model agreement prescribed under the Act and Rules. The complainant, therefore, cannot unilaterally seek cancellation of the registered agreement by invoking the convenient clause in the agreement.

6. In view of the above facts and findings, the complaint is dismissed.



(Dr. Vijay Satbir Singh)  
**Member-I/MahaRERA**