

BEFORE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC005000000000313

Ashutosh Bag

Prachi Ashutosh Bag

... Complainants.

Versus

Darode Jog Kulkarni Venture

Anand Dundiraj Jog

Sudhir Chandrakant Darode

Sunil Gajanan Kulkarni

Shailesh Gajanan Kulkarni

(Shriniwas Sinhgad County)

... Respondents.

MahaRERA Regn: P52100009647

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Complainant: Mr. C.S. Mane-Deshmukh Adv.


Respondents: Mr. Vikrant C. Salunke, Adv.

Final Order

18th January 2018.

The complainants contend that they agreed to purchase flat no. B-1101, Shriniwas Sinhgad County situated at village Gorhe Budruk, Taluka Haveli, District Pune from the respondents. Respondents agreed to deliver its possession by December 2016. But they failed to deliver it on the agreed date. Hence the complainants have been claiming refund of their amount with interest and/or compensation.

2. The respondents have pleaded not guilty but they have not filed their explanation. However, they have filed their purshis on 11.01.2018 to show their willingness to refund the principal amount of the complainants in two instalments. However, the complainants have refused that offer.



3. Following points arise for determination and I record findings thereon as under:

| POINTS | FINDINGS |
|---|--------------|
| a) Whether the respondents have failed to deliver the possession of the booked flat on the agreed date? | Affirmative. |
| b) Whether the complainants are entitled to get refund of their amount with interest? | Affirmative. |

REASONS

Delayed project:

4. The complainants have produced the agreement for sale executed by respondents in their favour showing that the respondents agreed to deliver the possession of the flat on or before December 2016. However, they have failed to deliver it on the agreed date. This fact has been established by the complainants.

Entitlement of the complainant.:

5. The Section 18 of RERA provides that the allottee can claim refund of his amount with interest and/or compensation if the promoter fails to deliver the possession of the apartment on the date specified in the agreement. It gives the option to allottee to withdraw from the project. In view of this provision, the complainants have exercised his right to withdraw from the project and claim refund of their amount with interest.

6. The complainants have filed the purshis Exhibit 'A' showing the details of the amount paid by them. It shows that the complainants have paid Rs. 4,13,842/- on 28.02.2013, Rs. 1,20,000/- and Rs. 47,000/- on 09.06.2014, Rs. 4,13,842/- on 19.06.2014, Rs. 1,08,895/- on 25.07.2014, Rs. 2,75,895/- on 25.11.2014, 07.02.2015, 25.05.2015 each, Rs. 2,77,327/- on 23.02.2016. These payments include service tax and Swaccha Bharat Cess.




In addition to this, they have to bear registration charges Rs. 28,380/-, and have to pay Rs. 1,83,475/- towards the insurance premium of the booked flat. They have contended that the stamp duty of Rs. 1,33,900/- had been paid by them in the name of Mr. Ashutosh Bag. Since the respondents have defaulted in delivering the possession of the flat on the agreed date, they are liable to refund all the amount received by them and the ancillary expenses incurred by them except stamp duty of Rs. 1,33,900/-.

7. Section 18 of RERA allows the allottee to collect his amount with interest at prescribed rate which is MCLR of SBI + 2%. The current rate of MCLR of SBI is 8.05% at present. Thus, the complainant is entitled to get simple interest at the rate of 10.05% together with Rs. 20,000/- towards the cost of the complaint. Hence, the order.

ORDER

1. The respondents shall refund the amount mentioned in Para 6 of this order with simple interest at the rate of 10.05% to the complainants from the date of receipt thereof till they are repaid.
2. The respondents shall pay complainants Rs. 20,000/- towards the cost of complaint.
3. Complainants shall execute deed of cancellation of agreement for sale, on satisfaction of their claim at respondents' cost.
4. The charge of amount payable to complainants is kept on his booked flat until his claims is satisfied.

Mumbai.
Date: 18.01.2018.


(B.D. Kapadnis)
Member & Adjudicating Officer
MahaRERA, Mumbai.