

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000001144

Satish B Shetty	...	Complainant
Versus		
Guruashish Construction Private Limited MahaRERA Regn.No. P51800011383	...	Respondent

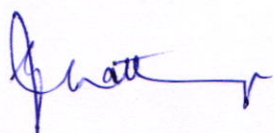
Order

February 6, 2018

Complainant himself present.

Respondent represented by Mr. V.K.Madan, Managing Director

1. The Complainant has entered into a registered agreement for sale (*hereinafter referred to as the said agreement*) on October 18, 2013 to purchase an apartment bearing No. 1804 -E, in the Respondent's project 'Meadows' situated at Goregaon, Mumbai. The Complainant stated that the date of possession as stipulated by the said agreement is October 15, 2015.
2. The Complainant alleged that the Respondent has failed to handover the said apartment within the time stipulated in the said agreement and therefore, he prayed the Respondent be directed to refund the entire amount paid by him along with interest and compensation as he does not want to continue in the said project.
3. The representative for the Respondent submitted that by virtue of an Order dated July 24, 2017 in CP No. 1061/I&BP/2017 passed by the Hon'ble National Company Law Board Tribunal (NCLT), Mumbai bench, the Respondent is under an insolvency resolution process and that an insolvency resolution professional has already been appointed by the said Order. Therefore, they submitted that the present complaint cannot be proceeded with until the said insolvency resolution process is completed. Further, he submitted that the said Order, pursuant to section 14 (1)(a) of the Insolvency and Bankruptcy Code,



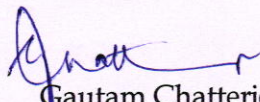
2016, the Hon'ble NCLT has already imposed a moratorium against institution or continuation of any suits or proceedings against the Respondent till the Insolvency Resolution Process is completed. Therefore, he prayed the present complaint be suspended till the said insolvency resolution process is completed.

4. Para 6 (a) of the said Order dated reads as thus:

... that this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate debtor.

...

5. In view of the above, though the Complainant is entitled for certain reliefs under the provisions of the Real Estate (Regulation and Development) Act 2016, the said relief cannot be granted at this juncture.
6. The present complaint is therefore disposed of with liberty to the Complainant to file fresh complaint after finalization of the said insolvency resolution process.


Gautam Chatterjee
(Chairperson, MahaRERA)