

MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL UNDER RERA Act

No.AT006000000000265

M/s. Damodar Suruchi Developers
8 Abhishek Building,
Dalia Industrial Estate
Off Link Road, Andheri (W)
Mumbai 400 053

.. Appellant/s

V/s.

Sanjiv M. Gill
Flat No. 504, Building No. 45,
CSR Complex, Kandivali (W),
Mumbai 400 067.

..Respondent/s

Adv. Bharat Jain & Ashish Venugopal for the appellants i/b Hariani & Co.

Preeti Gill, wife of Mr. Sanjay M. Gill, present for the Respondent.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 24th May, 2018
Dictated/Pronounced on: 24th May, 2018
Transcribed on : 25th May, 2018

:-ORAL JUDGMENT:-

Heard finally.

1. The appellant /Promoter has questioned legality and correctness of order dated 6th April 2018 recorded by Ld. Member-1 MahaRERA Mumbai.
2. The Ld. Member, MahaRERA has taking recourse to Sec. 59 (1) of RERA Act, 2016, for violating Section 3, for booking of the flat without first registering the project with MahaRERA, has directed the Promoter / Appellant to pay a penalty of Rs.50,000/-. The Authority has, also directed to refund the booking of amount

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to the allottee / original complainant without interest, to be refunded within a period of 30 days from the date of Order i.e. 6th April, 2018.


3. I quite see, that the booking of the flat by original complainant was dated 29th May, 2017 and RERA Act, 2016 has come in force from 1st May, 2017. However, the State Govt. has extended a grace period of 90 days for registration of ongoing projects; pursuant thereto, on 30th July, 2017, the Promoter has by following online procedure of registration effected the registration which the RERA Authorities have recorded on 17th August, 2017. There is no contest on these factual dates and the events. In the light of the grace period of 90 days granted for registration and same having been scrupulously adhered to by the Promoter, there was no infringement of Section 3 to attract impetus of Section 59(1) of RERA Act, 2016 to impose penalty. To this extent the Order under challenge, naturally calls for interference.
4. The second aspect is of refund of booking. Though it is argued that the booking will not bring the case of complainant as an allottee or will not attract provisions of Sec. 18(1) of the RERA Act, however, these submissions are against the statute itself. When the project was registered by the Promoter, it was but an obligation under the statute to quote specific date of handing over possession and the other legal requirements including the development, any litigation, financial liability, charge, impediment etc. It is not open for the Promoter to simply bank upon the booking forward and to divulge from the responsibility of releasing the amount to the complainant. Going by such argument will be a haywire with the statute which is legally impermissible. In the situation, the order of refund with ^{out} interest does not call for interference.

-:ORDER:-

1. With above directions the appeal is partly allowed.
2. No costs.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 24th May, 2018


(K. U. CHANDIWAL, J.)
President,
Maharashtra Revenue Tribunal, Mumbai
& I/c. Maharashtra Real Estate
Appellate Tribunal, (MahaRERA),
Mumbai