

**THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI.**

**COMPLAINT NO: CC006000000056199.**

Sudhans Kumar Dixit

... Complainant.

**Versus**

Rajendra Jayram Dubey  
(Ajayraj Complex)

...Respondent.

MahaRERA Regn: P99000007945.

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

**Appearance:**

Complainants: Adv. Namrata Shah.

Respondents: Absent (Exparte).

**FINAL ORDER**

**1<sup>st</sup> November 2018.**

The complainant has booked flat no. 303 of C-wing in the respondent's registered project 'Ajayraj Complex P-IV' situated at village Kirat, Palghar. The respondent failed to hand over the possession thereof on agreed date 31<sup>st</sup> May 2016. The complainant withdraws from the project and claims his amount with interest and/or compensation under Section 18 of Real Estate (Regulation and Redevelopment) Act, 2016.

2. Respondent has failed to appear despite the service of notice marked Exh. B. Hence the complaint proceeds exparte against him.
3. The complainant has produced the copy of the agreement for sale showing that the respondent agreed to hand over the possession of the booked flat on or before 31<sup>st</sup> December 2016. However, respondent has failed to hand over the possession on the agreed date. I record my finding to this effect.



4. Section 18 of RERA permits the allottee to withdraw from the project on the promoter's failure to hand over the possession of the flat on the specified date of handing over the possession mentioned in the agreement and claim refund of his amount with interest. The complainant has exercised the right to withdraw from the project and he claims his amount with interest. The complainant has filed the payment format marked Exh. 'A' showing the payment of consideration made by him to the respondent amounting to Rs. 9,00,000/-. He has incurred Rs. 12,920/- towards registration charges of the agreement for sale. He is entitled to get its reimbursement. The prescribed rate of interest is 2% above SBI's highest MCLR which is currently 8.55%. The complainant is also entitled to get Rs. 10,000/- towards the cost of the complaint. Hence, the order.

#### ORDER

The complaint shall refund the amount mentioned in the payment format marked Exh. 'A' with simple interest at the rate of 10.55% per annum from the date of the payments mentioned therein, till they are refunded.

The payment format marked Exh. 'A' shall form the part of the order.

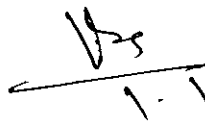
The respondents shall pay the complainant Rs. 10,000/- towards the cost of the complaint.

The charge of the complainant's claim shall be on the flat no. 303 till the satisfaction of the complainant's claim.

The complainant, on satisfaction of his claim, shall execute the deed of cancellation of agreement for sale at respondent's cost.

Mumbai.

Date: 01.11.2018.

  
1.11.18  
( B. D. Kapadnis )  
Member & Adjudicating Officer,  
MahaRERA, Mumbai.

Complaint No - 006000000056199/2018

Ext. A

**PAYMENT FORMAT**

Sr. No	Date	Amount	Purpose	Receipt No./Cheque No. with Bank Name
1.	25/04/2014	Rs. 1,00,000/-	Booking Amount	CASH
2.	07/11/2014	Rs. 1,00,00/-	Towards Purchase of flat	Receipt No - 1288; Cheque No - 501342 - HDFC Bank
3.	07/03/2015	Rs. 3,50,000/-	Towards Purchase of flat	Cheque No - 501351 - HDFC Bank
4.	12/06/2015	Rs. 1,70,000/-	Towards Purchase of flat	Cheque No - 501352 - HDFC Bank
5.	11/06/2015	Rs. 80,000/-	Towards Purchase of flat	Cheque No - 211855 - ICICI Bank
6.	12/06/2015	Rs. 50,000/-	Towards Purchase of flat	Cheque No - 252556 - ICICI Bank
7.	25/06/2015	Rs. 50,000/-	Towards Purchase of flat	Cheque No - 252557 - ICICI Bank
8.	<b>Total -</b>	<b>Rs. 9,00,000/-</b>		

04/03/2015  
Registration  
Charge

Rs 12,920/-

Registration fee

IDBI Net Banking

Milish Total  
SNM LEGAL ASSOCIATES

(On Behalf of Complainant)

Milish  
M/S. Ajayraj Realtors Pvt. Ltd

(Respondent)

SNM LEGAL ASSOCIATES  
OFFICE NO. 64, PLOT NO.51,  
SECTOR-15, THAPAR COMPLEX,  
CBD BELAPUR, NAVI MUMBAI-400614.

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**ORDER ON THE RECOVERY APPLICATION FILED IN COMPLAINT.**

The complainant reports non-compliance of the order passed in the matter. The respondents have failed to appear to show cause as to why recovery warrant should not be issued.

2. Hence, issue recovery warrant under Section 40(1) of RERA against the respondents.

3. The complainant to produce the statement showing the amount which has become due.

Mumbai.  
Date:25.03.2019.

  
25-3-19  
(B.D. Kapadnis)  
Member & Adjudicating Officer,  
MahaRERA, Mumbai.