

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

Complaint No.CC005000000022077

Prakash Patel

.. Complainant

Versus

**1.Nilesh Laddad
2.Sushil Agarwal**

.. Respondents

**Coram : Shri M.V. Kulkarni
Hon'ble Adjudicating Officer**

**FINAL ORDER
06-03-2019**

1. The complainant who had booked a flat with respondent/builder seeks withdrawal from project and refund of money paid with compensation.
2. As usual the online complaint lacks necessary details like description of flat, the price that was agreed to be paid, the amount paid by complainant, date of booking, date of agreement etc., All that is written is that possession not given after three years of commitment. From the agreement it can be made out that complainant booked flat No.502 in A-2 Wing in the project of the respondents Gagan Akanksha at Koregaon, Taluka Haveli. The price agreed was

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Rs.13,57,050/- Agreement was executed and registered on 11-10-2013. As per Clause-20 date of possession was 31-3-2015. Payment of Rs.4,71,410/- is acknowledged in the agreement. Since the respondents failed to deliver possession as per agreement, complainant has filed this complaint. The agreement shows that Gagan Horizon Ventures is a joint venture of association of persons of which respondents No.1 and 2 are duly constituted attorney.

3. The complaint came up before me on 4-2-2019. Complainant appeared in person but respondent failed to appear. Arguments for complainant were heard. As I am working at Pune and Mumbai Offices in alternatively weeks, the matter being decided now.
4. Following points arise for my determination. I have noted my findings against them for the reasons stated below:

POINTS	FINDINGS
1. Have the respondents failed to deliver possession to the complainant as per agreement without there being circumstances beyond their control?	Affirmative
2. Is the complainant entitled to the reliefs Claimed	Affirmative

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3. What Order?

As per final order.

Reasons

5. Point Nos.1 & 2: As stated earlier the agreement is dated 11-10-2013. The complainant booked flat No. 502 in A-2 Wing in the project of the respondents Gagan Akankasha for a price of Rs.13,57,050/- As per Clause-20 date for delivery of possession was 31-3-2015. Payment of Rs.4,71,410/- is acknowledged in the agreement. It is the contention of the complainant that possession is not given even after three years of the commitment. More than three years have gone by since the agreed date for possession expired. The respondents have not challenged the contention of the complainant that they failed to deliver possession of the flat as per agreement. No circumstances are pleaded by the respondents which were beyond their control and due to which possession could not be delivered as per agreement. I therefore answer point No.1 in the affirmative.
6. The online complaint is silent about the amount paid by complainant to the respondents. These are the minimum things which are required to be incorporated in the complaint which most of the complainants are ignoring and leaving it to find them out from the documents found on record. The agreement acknowledges payment of Rs.4,71,410/- The

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complainant has placed on record copies of receipts. There is receipt for Rs.75,000/- dated 4-11-2012, receipt for Rs.96,410/- dated 13-6-2013, for Rs.1,00,000/- dated 7-3-2013 for Rs.1,00,000 dated 13-6-2013. The total comes to Rs.3,71,410/- There is further receipt for Rs.1,00,000/- dated 11-12-2013. This may not have been included in the acknowledgement in the agreement. There is a receipt dated 13-6-2013 for Rs.8,316/- in respect of Sales Tax. Further receipts are for Rs.1,00,000/- dated 14-10-2014, for Rs.18,869/- (Sales Tax) dated 31-1-2014, for Rs.3,10,672/- dated 31-1-2014, for Rs.4,193/- (Sales Tax) dated 12-10-2014, for Rs.1,35,705/- dated 12-10-2014. The total including agreement amount comes to Rs.11,49,165/- Some of the amounts have been transferred by NEFT. Other amounts are transferred through RTGS from Bank of India and by cheque drawn on Bank of India, Pune and Kotak Mahindra Bank, Pune. Account statements with Kotak Mahindra Bank and Bank of India are placed on record. The complaint will be entitled to refund of Rs. 11,49,165/- paid by him together with interest as provided under Rule-18 of Maharashtra Rules. I therefore answer point No.2 in the affirmative and proceed to pass following order.

ORDER

1. The complainant is allowed to withdraw from the project.

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2. The respondents to pay Rs.11,49,165/- to the complainant together with interest @ 10.70% per annum from the date of payments till final realisation.
3. The respondents to pay Rs.20,000/- to the complainant as costs of this complaint.
4. Complainant to execute cancellation deed at the cost of the respondent.
5. Respondent to pay the amounts within 30 days from the date of this order.

Pune
Date :- 06.03.2019


(M.V.Kulkarni)
Adjudicating Officer,
MahaRERA,