

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

COMPLAINT NO: CC006000000056343.

Mohini Motwani
Sangeeta Kithani

... Complainants.

Versus

Aanya Realtors
(Falco Rivershire)

...Respondents.

MahaRERA Regn: P51700005912.

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

Appearance:

Complainant: Mr. S Bhimani.

Respondents: Mr. Rohit Chugani.


FINAL ORDER

6th February 2019.

The complainant Mrs. Mohini Motwani booked flat no. 408 & flat no. 708 is booked by Mrs. Sangeeta Kethani in respondents' registered project 'Falco Rivershire' situated at Village Mohili, Tal.Kalyan, District: Thane. The respondents have failed to hand over the possession of the said flat on the agreed date 30th September 2016. Therefore, the complainants withdraw from the project and claim refund of their amount with interest and/or compensation under Section 18 of RERA.

2. The respondents have appeared and pleaded not guilty but they have not filed their reply. Today the respondents have failed to appear.

3. The complainants have produced the copies of the agreements for sale showing that the respondents agreed to hand over the possession of the flats on or before 31st March 2016 with grace period of six months. The possession has not been given as agreed. Therefore, the complainants are



entitled to get refund of their amount with simple interest from the date of payment under Section 18 of RERA. The prescribed rate of interest is 2% above the SBI's highest MCLR which is currently 8.55%. Mrs. Mohini has submitted the statement of payment marked Exh.'A' showing that she paid Rs. 17,00,000/- to the respondents including the stamp duty amounting to Rs. 92,000/- paid on 27.01.2014. Registration charges Rs. 16,760/- are also included in the statement.

4. Mrs. Sangeeta has filed the statement of payment marked Exh.'B' showing that she paid Rs. 17,00,000/- to the respondents including the stamp duty amounting to Rs. 92,000/- paid on 27.01.2014. Registration charges Rs. 16,760/- are also included in the statement.

5. Since five years have not passed from the execution of the agreement for sale, complainants are entitled to get refund of stamp duty from sub registrar's office in view of Section 48 of the Maharashtra Stamp Act. Hence they cannot claim refund of stamp duty amount at this stage. Complainants are entitled to get all the amount mentioned in the above mentioned statements excluding the stamp duty. They are also entitled to get Rs. 10,000/- towards the cost of the complaints. Hence the following order.

ORDER

The respondents shall pay the respective complainants the amount mentioned in Exh.'A' and 'B' except the amount of stamp duty with interest at the rate of 10.55% per annum from the date of the payment of the amount till the refund.

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

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

The charge of the aforesaid amount shall be on the complainants' booked flats till the satisfaction of their claims.

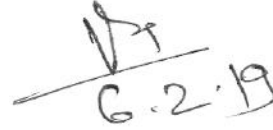


The complainants on satisfaction of their claims, shall execute the deed of cancellation of agreements for sale at respondents' cost.

In case of respondents' failure to satisfy complainants' claims within five years of the agreement for sale, the respondents shall pay them the amount of stamp duty also.

Mumbai.

Date: 06.02.2019.

A handwritten signature in black ink, appearing to be 'B. D. Kapadnis', written over a horizontal line. Below the line, the date '6.2.19' is handwritten.

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

30/11/18 Serial No 9, CC 060000056343

E-7 A.
V2
Merged

Name of the complainant: Mrs Mohini V Motwani / Mr Amit V Motwani

Sr.No	Date	Amount	Purpose	Receipt No.//cheque No. with Bank Name
1	28/12/2013	200000	Full one time payment settlement for Flat No 408 - Rivershire	Cheque No 956490 - Yes Bank
2	02/01/2014	750000	Full one time payment settlement for Flat No 408 - Rivershire	Cheque No 956493 - Yes Bank
3	02/01/2014	750000	Full one time payment settlement for Flat No 408 - Rivershire	Cheque No 956492 - Yes Bank

Total 17,00,000/- Seventeen Lakhs paid to Builder including stamp duty and Registration.

Amit-

30/11/2018 Serial No.9

CC060000056343

Flat B
R
Member II

Name of the complainant: Mrs Sangeeta R Kithani / Ms Honey R Kithani

Sr.No	Date	Amount	Purpose	Receipt No./cheque No. with Bank Name
1	28/12/2013	200000	Full one time payment settlement for Flat No 708 - Rivershire	Cheque No 0174912 - Corporation Bank
2	04/01/2014	670000	Full one time payment settlement for Flat No 708 - Rivershire	Cheque No 0174912 - Corporation Bank
3	03/01/2014	830000	Full one time payment settlement for Flat No 708 - Rivershire	Cheque No 182568 - Navjeevan Bank

Total, 17,09,000/- Seventeen lakhs paid to
Builder including Registration and stamp duty.

Sangeeta