

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

**Complaint No.CC005000000011629**

**Malikarjun Patil  
Deepti Patil**

**.. Complainants**

**Versus**

**1.Mr.Karthik  
2.Marvel Sigma  
3.Runal**

**.. Respondents**

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

**FINAL ORDER  
04-10-2018**

1. The Complainants who had booked a flat with Respondents/Builder seek refund of amount with interest and compensation as the Responds failed to deliver possession of the flat as per agreement.
2. Complainants have alleged that they booked a flat with the Respondents in the project Marvel Castella in July, 2016. As there was no progress in the construction, they cancelled the booking in December, 2016. Respondents promised to refund the amount received but did not pay the amount. The Complainants need their amount for the sake of their father urgently. The Respondents had also agreed to pay rent of Rs.24,000/- since the agreed date of possession. The Complainants pray for the same.

*17-10-18*

3. The Respondents have resisted the complaint by filling written explanation. Initially the Respondents representative Mr.Karthik was the only Respondent. Later on Marvel Sigma and Runal were added by carrying out amendment. The Respondents alleged that complaint against Karthik is not tenable. Likewise agreement was executed in favour of Mallikarjun Patil and Deepti Patil, Deepti Patil was a necessary party. By carrying out amendment Deepti Patil is added as a party. Also co-promoter Runal Developers was a necessary party. By carrying out amendment Runal Developers is made Respondent No.3. It is alleged that no cause of action arose for filing of the complaint. The complaint therefore deserves to be dismissed.
4. On the basis of rival contentions of the parties 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 the possession of the flat as per agreement? | No                 |
| 2. Are the complainants entitled for relief Claimed?                                   | No                 |
| 3. What order?   | As per final order |

*h  
n 7.12.18*



### REASONS

5. **POINT Nos. 1 & 2** :- As usual necessary details of the transactions are missing in the complaint. At the arguments stage, the Complainant-1 submitted that Complainants booked flat No.B-301 in the project of the Respondents Marvel Castella at Balewadi. Total price agreed was Rs.1.35 crores. Complainants paid Rs.10 lakh. There was no progress in the construction. The Complainants cancelled the booking in December, 2016. The Respondents promised to refund the amount within three months. However, Respondents have not refunded the amount.
  
6. It is clear that no agreement was executed by Respondents in favour of the Complainants. Receipt dated 11-7-2016 for Rs.1,11,400/- is placed by Complainants on record. The payment was towards flat No.B-301 in the project Marvel Castella. Another receipt for Rs.31,500/- of the same date is also produced. One more receipt for Rs.8114/- of the same date is produced. One receipt dated 15-7-2016 for Rs.5,00,000/- is produced. One receipt dated 20-7-2016 for Rs.1,91,886/- is produced.
  
7. As per Email of the Respondents dated 10<sup>th</sup> July, 2016, demand for payment for booking amount was raised. From the receipts on record it can be presumed that Complainants had booked flat No.B -301 in the project Marvel Castella by making payments from 11-7-2016. The total amount paid was Rs.8,42,900/-

*h-10.18*

8. The Complainants alleged that the Respondents agreed to refund the amount as they cancelled the booking in December, 2016 due to no progress in the project. The Respondents agreed to pay interest @ 12% per annum. It is clear that neither booking agreement was executed nor cancellation deed was executed. Therefore, the terms as to date of delivery of possession and refunding the amount cannot be made out. The Complainants specifically averred that they booked the flat in July, 2016 and cancelled booking in December, 2016 on the terms of refund of the amount paid with interest @ Rs.12/- per annum. Once the Complainants cancelled their booking, they are no more allottees. Even if the Respondents had agreed to refund the amount with interest that agreement can be enforced by a decree of Civil Court. Now no question of handing over possession and delay in it has remained. Consequently, no complaint under Section-18 of RERA is tenable. I, therefore answer point No.1 and 2 in the negative and proceed to pass following order.

**ORDER**

1. The complaint stands dismissed.
2. No order as to costs.

Pune  
Date :- 04.10.2018

*MV 4-10-2018*  
( M.V.Kulkarni )  
Adjudicating Officer,  
MahaRERA