

**BEFORE THE MAHARASHTRA ESTATE REGULATORY AUTHORITY,
MUMBAI**

COMPLAINT NO. CC006000000000182.

Mr. Prasad Patkar Complainant.

V/s

- 1) M/s. Runwal Projects Pvt.Ltd
- 2) Mr. Vidya Sagar Vishvanathan, Director
Of M/s.Runwal Projects Pvt. Ltd. Respondents.

MahaRERA Reg.No.P51800003620

COMPLAINT NO. CC006000000000481.

Mr. Prasad Patkar Complainant.

V/s

- 1) M/s. Runwal Projects Pvt.Ltd
Through its Director Mr.Sandeep Runwal Respondents.

COMPLAINT NO. CC006000000000131.

Mr. Avinash Rai. Complainant.

V/s

- 1) M/s. Runwal Projects Pvt. Ltd.
And Mr, Vidya Sagar Vishvanathan.
Director, Runwal Projects Pvt. Ltd. Respondents.

MahaRERA Reg.No.P51800003620

M/S. Solicis Lex for Complainants.

M/S. Kanga & Co. for Respondents.

CORAM : Shri Gautam Chatterjee, Honble Chairperson.

Dr. Vijay Satbir Singh, Hon'ble Member.

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

17th NOVEMBER 2017.

FINAL COMMON ORDER

The Complainant Mr. Patkar has filed Complaint No. CC006000000000182¹² to contend that he booked a flat No. 104 situated on the 1st floor in Tower-B of Respondent's project "Runwal Elegante" Lokhanwala Complex, Oshiwara, Andheri (West), Mumbai : 4000102. This project consists of A, B & C Towers. It is a single project. The Respondent has registered only Tower-A with MahaRERA as ongoing project bearing No. P51800003620. The Tower B & C have not been registered by the Respondent as according to them, they have received part Occupancy Certificate of those towers. The Complainant complains that even Tower B & C are not completed and the construction work is going on. Respondents have failed to register Tower No. B & C.

2. The Complainant Mr. Patkar has filed complaint no. CC006000000000481 to contend therein that he booked a Flat No. 104, 1st floor of Tower-B of "Runwal Elegante". Respondents had sent letters asking him to pay the balance amount of consideration and he asked respondent to furnish the approvals and permissions for his inspection but instead of giving inspection of those approvals and permissions, the Respondents sent a letter intimating the Complainant that on his failure to make the payment, he would be liable to penal interest. However, on 20th September 2017, the Respondents informed the Complainant that they have terminated his agreement for his failure to pay the remaining instalments and also intimated that the initial amounts of consideration has been forfeited.

3. The Complainant Mr. Rai has filed complaint no. CC006000000000131. He contends that he purchased flat No. 1105, in Tower-B of Runwal Elegante. His

contentions are similar to the contentions of Mr. Patkar contained in Complaint No. CC006000000000182^h.

4. These matters have been taken by Full Bench to consider the issue of their maintainability. Heard the Learned Advocate of the Complainants on the limited point of maintainability. He admits that the flats booked by the Complainants are in Tower-B and the part occupancy certificate in respect of Tower-B has been issued. He submits that the said occupancy certificate is wrongly issued. He has also produced some documents in support of his contention. Respondents' learned advocate brings to our notice that occupation certificate is issued in respect of B and C tower hence they are not registered and this authority also recorded the finding to that effect on 12.10.2017 relating to those two towers while responding to a source details information provided by Mr. Prasad Patkar.

5. From the facts and circumstances disclosed in the complaints themselves, it becomes clear that the flats of the Complainants are in Tower-B for which occupancy certificate has been issued by the Competent Authority. Whether it is issued properly or improperly by the said Authority is not the issue which can be gone into by MahaRERA especially when the Complainant has approached the proper forum in this regard.

6. As per Section 3 of the Real Estate (Regulation and Development) Act, 2016, the ongoing projects which have received the completion certificate do not require registration. The explanation of Section 3 (2) of RERA provides that, for purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a standalone real estate project, and the promoter shall obtain registration under this Act for each phase separately. In this context Rule 4 (1) Of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Penalty on website) Rules, 2017 lays down that application for registration is required to be submitted in respect of an ongoing project of which completion

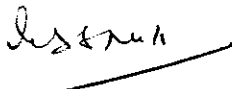
certificate or occupancy certificate has not been received. Rule 4 has also explained the concept of phase of the project requiring registration. It means the building or buildings in a project in respect of which occupancy or completion certificate has not been received. In the light of these provisions when the part occupancy certificate in respect of B & C Towers has been received by the Respondents, they have rightly not registered those two towers and registered only Tower A which is incomplete.

7. MahaRera gets jurisdiction to entertain only those complaints which relate to a registered project. So far as the locus standi of the Complainants is concerned, their flats are situated in Tower B which is not registered with MahaRERA, therefore, MahaRERA does not get jurisdiction to entertain his complaints. They are not maintainable.

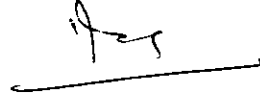
The complaints are dismissed.

Mumbai,

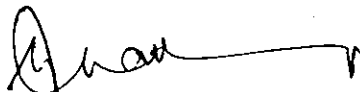
17th November 2017.



(Dr. Vijay Satbir Singh)
Hon'ble Member I
MahaRERA, Mumbai.



(B.D. Kapadnis)
Hon'ble Member II &
Adjudicating Officer
MahaRERA, Mumbai.



(Gautam Chatterjee)
Hon'ble Chairperson, MahaRERA.