

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

COMPLAINT No: CC006000000022840

Mr. Jayesh Kumar Jain

..... Complainant

Versus

M/s Nirmal Lifestyle Private Limited

MahaRERA Registration No. P51800005668

..... Respondent

Coram: Hon'ble Dr. Vijay Satbir Singh, Member 1

Adv. Sanjeev Chaturvedi appeared for the complainant.

Adv. Deepan Dixit a/w Mr. Rohit Chavan appeared for the respondent.

Order

(1st February, 2018)

1. The complainant is an allottee in the MahaRERA registered project bearing No. P51800005668 known as "Grand and Slam & Game Point "at Mulund West, Mumbai.
2. The complainant had purchased a flat No 402 having carpet area admeasuring 659 sq.fts in Building known as Game Point in the respondent's project vide registered agreement for sale dated 21-09-2015, in which the date of possession was mentioned as June 2019 with grace period of 6 months i.e. 31-12-2019. The complainant alleged that the respondent had violated the provisions of section 19(1) of the Real Estate (Regulation and Development) Act, 2016. He, therefore, prayed for refund of the amount paid by him to the respondent with interest and compensation.
3. This matter was heard today. The complainant has stated that he is seeking refund of the amount paid to the respondent due to followings reasons;
 - a) The respondent has violated the provisions of section 19(1) of the Real Estate (Regulation and Development) Act, 2016 and no permissions are uploaded on

MahaRERA website site at the time of project registration. This amounted to unfair trade practice.

- b) The respondent has not disclosed the ownership litigation pending before the Debt Recovery Tribunal (DRT) on MahaRERA registration.
 - c) Even the Panjab National Bank has refused to grant loan to the respondent. The said information has not disclosed in MahaRERA registration.
4. The respondent disputed the claim of the complainant and denied allegations made by the complainant. The respondent stated that he has obtained all relevant permissions from the competent authority. The relevant approvals which were required for MahaRERA project registration such as IOD, layout, pending litigation, encumbrances with respect to the said project etc. had already been uploaded on MahaRERA website. As the commencement certificate is now made it mandatory document for registration, he would upload the same within a month. With regard to the order passed by the DRT, he stated that, the said order does not pertain to this project and hence the same was not uploaded.
5. In addition to this, the respondent further stated that there was no cause of action for the complainant to file the present complaint under section 18 of the RERA Act, 2016 since the date of possession as per the registered agreement for sale had not lapsed. Therefore, the present complaint is not maintainable as on today and same is premature. Even there is no violation of the any provision of the RERA Act, as alleged by the complainant.
6. Considering the rival submissions made by both the parties, this Authority is of the view that the complainant is seeking refund with interest and compensation under section 18 of the RERA Act, 2016. The relevant provisions of the said section reads as under;
- " 18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—**
- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or**
 - (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,**

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:".

In the present case as per the registered agreement for sale executed between both the parties, the date of possession i.e. 31-12-2019 is yet to come. Therefore, there is no violation of section 18 of the RERA Act, 2016 and hence the complainant can not seek relief under the said provision.

7. With regard to other issue raised by the complainant for violation of section 19(1) of the RERA Act by the respondent, it is observed that the respondent had already disclosed the required information as per the provision of section 4 of the RERA Act, 2016 and the Rules made there under on MahaRERA project registration. Hence, the contention of the complainant is not acceptable. This Authority does not find any merits in this complainant and same is premature.
8. However, during the hearing, the respondent has made statement before this Authority that he is ready and willing to refund the amount paid by the complainant within a period of 4 months from the date of cancellation proceeding is completed. Consequently, the respondent has filed written undertaking to that effect on record of this Authority. Same is taken on record.
9. In view of the above facts and undertaking submitted by the respondent, nothing survive in the complaint. Therefore, the complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member-1/MahaRERA