

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI
COMPLAINT NO. CC006000000055148

Shradha Agrawal ... Complainant.

VERSUS

JVPD Properties Pvt. Ltd.
Laxman Bhagtani
Dipesh Laxman Bhagtani
Mukesh Laxman Bhagtani
Jaycee Homes Pvt. Ltd. ... Respondents.

COMPLAINT NO. CC006000000055150

Jaiprakash N. Agrawal ... Complainant.

VERSUS

JVPD Properties Pvt. Ltd.
Laxman Bhagtani
Dipesh Laxman Bhagtani
Mukesh Laxman Bhagtani
Jaycee Homes Pvt. Ltd. ... Respondents.

COMPLAINT NO. CC006000000055153

Sushant Kumar ... Complainant.

VERSUS

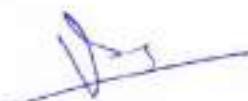
JVPD Properties Pvt. Ltd.
Laxman Bhagtani
Dipesh Laxman Bhagtani
Mukesh Laxman Bhagtani
Jaycee Homes Pvt. Ltd. ... Respondents

COMPLAINT NO. CC006000000055154

Saurabh Katiyar ... Complainant.

VERSUS

JVPD Properties Pvt. Ltd.
Laxman Bhagtani
Dipesh Laxman Bhagtani



Mukesh Laxman Bhagtani
Jaycee Homes Pvt. Ltd. ... Respondents

COMPLAINT NO. CC006000000055268

Ashu Kumar ... Complainant.

VERSUS

JVPD Properties Pvt. Ltd.
Laxman Bhagtani
Dipesh Laxman Bhagtani
Mukesh Laxman Bhagtani
Jaycee Homes Pvt. Ltd. ... Respondents

COMPLAINT NO. CC006000000055271

Ashverya Dikshit ... Complainant.

VERSUS

JVPD Properties Pvt. Ltd.
Laxman Bhagtani
Dipesh Laxman Bhagtani
Mukesh Laxman Bhagtani
Jaycee Homes Pvt. Ltd. ... Respondents

Project No. P51800011181.
(Serenity - Bldg. 1)

Coram. Shri B.D. Kapadnis
Hon'ble Member II&
Adjudicating Officer
MahaRERA, Mumbai

Appearance:
Complainants: Adv. Mr. Satish G. Dedhia.
Respondents: Ex parte.

Final order

23rd August, 2018

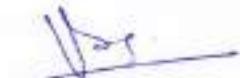
Complainants have booked following flats in Respondents' registered Project "Bhagtani Serenity", situated at Tirandaz, Taluka Kurla Mumbai. Necessary information is as follows-

Name of the Complainant	No. of booked flat	Amount Paid & Acknowledged
Shradha Agrawal	2301, D Wing	24,34,228/-
Jaiprakash N. Agrawal	401, D Wing	24,09,228/-
Sushant Kumar	1903, A Wing	15,39,597/-
Saurabh Katiyar	2302, D Wing	24,34,228/-
Ashu Kumar	1601, C Wing	15,64,597/-
Ashverya Dikshit	1602, C Wing	6,07,080/-

Complainants contend that they booked the flats on the Respondents' representation contained in allotment letters and advertisements that they shall complete the project. However, respondents by sending the letter dated 24th July, 2017 declared that they would not go ahead with the project and complete it. Therefore, the complainants allege that the respondents made false statements, representations regarding the completion of their project. The respondents got letters of cancellation booking from them on the promise that they would honour the post-dated cheques issued by them. However, the respondents did not honour them. This amounts to unfair practice and fraudulent act within the meaning of Section 7 (1) (c) (d) of RERA. Hence they claim their amount with interest and / or compensation under section 7 (3) & under section 12 of RERA.

2. The respondents have failed to appear despite notices sent to them. Hence, the matters proceed ex parte against them.
3. Following points arise for determination. I record the findings thereon as under: -

<u>Points</u>	<u>Findings</u>
1. Whether the respondents made false statement regarding completion of the project?	Affirmative.
2. Whether the respondents indulged in the fraudulent act or unfair practice?	Affirmative.



3.Whether the respondents are liable to
to refund complainants' amount with
interest?

Affirmative.

REASONS:

4. The allotment letters clearly show that the respondents agreed to complete the project and hand over the possession of the complainants' flats within 42 months from the receipt of the final commencement certificate from plinth level. But by their letter dated 24.07.2017 they have claimed frustration and they are not going to complete the project. The letter further shows that they would refund complainants' amount within 6 months. However, the respondents have not refunded the amount of the complainants. These facts therefore show that the respondents are guilty under Section 7 (c) (d) and of Section 12 of the Act.

5. Section 7(3) of RERA provides that the Real Estate Regulatory Authority has the authority to impose such terms and conditions to bind the promoter in the interest of justice. Section 12 provides that if the allottee does not want to continue with proposed project, he can claim refund of the amount with interest and /or compensation. In Neelkamal Realtors Suburban Pvt. Ltd. Vs. Union of India (W.P. No. 2737 of 2017 of original civil jurisdiction) Hon'ble Bombay High Court held in para 258 of the judgement that when promoter claims frustration, he is bound to return the money of allottee with interest. Mr. Dipes Bhaktani has filed an affidavit before the Hon'ble High Court in Criminal anticipatory bail application nos. 1533, 1935, 1725 of 2017 and acknowledged the receipt of the amount mentioned in the table referred to above. In view of these provisions, it is necessary to direct the respondents to refund all the amount shown in the table. I find that complainants are entitled to get refund of their amount with simple interest at the prescribed rate which is 2% above the marginal cost of lending rate of interest of State Bank of India which is currently 8.5%, from the dates of payment till they are refunded.



Therefore, the respondents are liable to refund the said amount with interest at the rate of 10.5% from the dates of payment. The complainants are also entitled to get Rs. 10,000/- towards the cost of complaint. Hence, the following order.

ORDER

- A. The respondents shall refund the amount mentioned in the table to the respective complainants.
- B. The respondents shall pay simple interest at the rate of 10.5% from the dates of payment of the amount till they are refunded.
- C. The respondents shall pay the complainants Rs. 10,000/- towards the cost of the complaint.
- D. The charge of aforesaid amount shall be on the respondents' property under project bearing C.T.S. No. 63A/5 and 64D "S" ward of village Tirandaz, Taluka Kurla, Mumbai, till the complainants' claims are satisfied.

Mumbai.

Date: 23.08.2018.


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