

MAHARASHTRA REAL ESTATE **APPELLATE TRIBUNAL UNDER RERA Act**

No.AT006000000000010

Dr. (Mrs.)Shubada Ram Deoskar
Dr.(Mr.) Ram Deoskar
Both R/at 103, 104 New Market Plaza
Clover Village, Wanwadi,
Pune-411040

.. Appellant/s

V/s.

M/s. Neepa Real Estate Pvt. Ltd.
Through its Director
Mr. Vallabh Natwarlal Sheth
O/at Hallmark Business Plaza, Unit No. 1201,
12th floor, Sant Dyaneshwar Marg, Kala Nagar,
Bandra East, Mumbai 400 051.

..Respondent/s

Adv. Leena Kaulgekar for the appellant.

Adv. Vikramjit Garewal for Respondent

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.

Heard on : 18th April , 2018

Dictated/Pronounced on: 19th April, 2018

Transcribed on : 19th April, 2018

:-ORAL JUDGMENT:-

Heard finally.

1. The order dated January 15, 2018 of the Ld. Chairperson, MahaRERA is challenged by the allottee.
2. Adv. Kaulgekar for the allottee says there is inordinate delay in the project of the promoter. The allotment letter is dated April 14, 2015 and upto Sept. 2015 the allottee has released an amount 1,19,83,000/- which includes the tax amount.
3. The apartment was to be handed by December, 2017. The promoter has failed to comply the requisitions.
4. The Ld. Counsel for the appellant has tendered Search Project details of the promoter's subject project wherein huge liabilities against the building is indicated. The Commencement Certificate was 18th January, 2011 and

the second commencement certificate was 21st Dec. 2016 and thereafter nothing on record to illustrate that in any manner construction activity has commenced at the site. The Ld. Counsel says the time indicated at the time of registration was by December 2022 is too long to bear. The grievance is the allottee wants to exit from the project as the assurances in the letter of allotment are not adhered to in its letter and spirit. Project is protracted with oblique motives by the promoter. The Allottee has requested for refund of amount with interest and compensation.

5. The Ld. Counsel for the promoter on instructions says whatever date is given by the Ld. Chairperson to be the knocking date as December 31, 2021 for obtaining Occupation Certificate shall be willingly followed even it will be advanced by 6 months. On instructions he further says that if the allottee wants to quit from the project and want refund the principal amount received shall be released in favour of the allottee, without any interest.
6. During the course of submission I have suggested the promoter to release the principal amount with interest for atleast two years though the period of payment by allottee is virtually three years but promoter's advocate has no instructions from the client.
7. On going through the prayers in the appeal, I find the grounds argued today are beyond the pleadings and even the prayers. The Ld. Chairperson has passingly considered non registration of Agreement for Sale or non execution of Agreement for Sale however, that by itself will not dilute and decrease the rights if any flowing in favour of allottee, if he adheres to the other requirements under sec. 18 of RERA Act.
8. The overall effect, after hearing the Id. Counsels and the appellant is, the matter needs to be remanded to the Ld. Chairperson to consider prayers of allottee for exiting from the project and his prayers to receive the amount with reasonable interest including the expenses occasioned for taxes.
9. In the above backdrop, the order under challenge calls for interference and needs re-hearing by the Ld. Chairperson.


:-ORDER:-

1. The order in complaint No.AT006000000000010 dated January 15, 2018 is set aside.

2. The matter is remanded to the Ld. Chairperson, MahaRERA, Mumbai to decide afresh in the light of rival pleadings advanced by the parties.
3. The parties to appear before the Ld. Chairman, MahaRERA, Mumbai on 7th of May 2018.
4. No costs.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 19th March, 2018


(K. U. CHANDIWAL, J.)
President,
Maharashtra Revenue Tribunal,
Mumbai
& I/c. Maharashtra Real Estate
Appellate Tribunal, (MahaRERA),
Mumbai