

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

COMPLAINT NO: CC006000000023132

Smt. Vimla Kapoor Complainant

Versus

M/s. Ekta Supreme Corporation

MahaRERA Registration No - P51800000908

..... Respondent

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

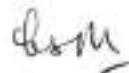
Adv. Sanjay Chaturvedi appeared for the complainant.

Advocate Mr. Amrut Joshi a/w Adv Jayesh Rathod appeared for the respondent.

Order

(10th April, 2018)

1. The complainant who is members of a redevelopment society known as "Corner View CHS Ltd" has filed this complaint in the MahaRERA registered project bearing No. P51800000908 at Bandra (West), Mumbai seeking following directions to the respondent.
 - a. To give the complainant an additional 41% carpet area over and above the original carpet area of 824 sq.ft. as the rightful and legitimate FSI of the complainant's property by virtue of the fungible FSI given by Competent Authority i.e. MCGM.
 - b. To enter into agreement for sale for the said premises for the extra carpet area as decided in development agreement / Supplement Development agreement.
 - c. To pay the hardship cost / corpus fund to the complainant as given to other commercial users / allottees on the ground floor of the project and to adjudicate for the losses incurred and interest on the amount accrued as per the Act.



2. This matter was finally heard today. The complainant argued that she is the rightful owner of the apartment in Corner View CHS Ltd. since 1979 which is being redeveloped by the respondent. The latter has denied possession of the apartment agreed to be transferred to her in redeveloped building after forcefully evacuating her from her original premises under section 354 of the BMC Act. She has not given consent for the redevelopment and was forced to accept respondent's conditions on which he had entered into the agreement with her on 30-09-2009. He never got it registered as required under prevalent laws and in violation of section 13 of the Act. The complainant, therefore argued that she may be given possession of her shop premises under section 19(3) of the RERA Act, 2016 in the redevelopment project of the respondent, since she is occupying the same for the last 40 years.
3. The respondent disputed the claim of the complainant and argued before this Authority that this was not maintainable since the complainant was the member of the redevelopment society and the redevelopment component do not fall within the purview of the RERA Act, 2016. Moreover, there is no agreement for sale executed with the complainant and therefore, she is not an allottee in the said project and can not seek relief under section-13 of the provisions of the RERA Act, 2016.
4. Considering the rival submissions made by both the parties, it is revealed that the claim of the complainant for shop premises under the MahaRERA project was in dispute and therefore to verify the facts, this Authority called the committee members of the Corner View CHS Ltd for hearing today. Accordingly, Adv. Mayank Bagla appeared for the society. He clarified to this Authority that the complainant is a member of the society and she has been issued share certificate for her original residential flat. She changed the use of her flat into shop premises and multiple litigations have been filed by her regarding her claim.
5. It is an admitted fact that the complainant is the original member of the society, which decided to redevelop their old building through the respondent promoter. There is no agreement for sale and the

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complainant is going to get alternate accommodation in lieu of her old apartment without spending any additional money. The society is legal entity and collective body consisting of its members and therefore, the complainant alone can not differ from the collective decision. If so, she has to file proceeding against the society before the Competent Authority as same cannot be dealt with by this Authority.

6. Moreover, as per the RERA Act, 2016 and the Rules and Regulations made there under, the sale component is registered with MahaRERA and therefore, this Authority gets jurisdiction to resolve the dispute pertaining to the sale component. According to Section-3 (2)C of RERA Act, 2016, no registration of real estate project is required for the purpose of re-development. As the complainant's claim pertains to the redevelopment component, which is not registered with this Authority, the claim of the complainant is beyond the jurisdiction of this Authority. The complainant being member of the redevelopment society can approach the civil court for resolving her disputes.
7. As a result, the complaint stands dismissed.



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