

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY MUMBAI
COMPLAINT NO. CC006000000000903

Kamni Hingorani ... Complainant

VERSUS

Rupji Constructions ... Respondents

MahaRERA Regn: - P 51800002249

Coram ... Shri B.D. Kapadnis
Hon'ble Member & Adjudicating Officer
Appearance:

Complainant: Adv. Vinod Vasant Kashid
Respondent: Exparte

Final Order
23rd August 2018

The Complainant contends that he booked flat No. 801 in respondents' registered Project Rupji Signature, situated at Mulund (West), Mumbai. The respondents agreed to deliver its possession on or before 31st March, 2017. However, they failed to hand over the possession of the flat on the agreed date. Therefore, the complainant withdraws from the project and claims refund of his amount with interest under Section 18 of Real Estate (Regulation & Development) Act, 2016 (RERA).

2. The Notices have been sent to the Respondents on their registered email id. Not only that, the learned Advocate of the Complainant Mr. Kashid has also filed an affidavit to the effect that he has served copy on the respondents' three addresses, viz., Residence, Office and or Arthur Road Jail as Mr. Rupji is said to be in the said Jail. I am convinced that the notices have been served upon the respondents in the manner of the services of notices provided under Rule 8 of the Maharashtra Real Estate (Recovery of Interest, Penalty, etc.)



Rules, 2017. The respondents have failed to appear despite the service of the notices. Hence, the matter proceeds ex parte against them.

3. The point that arises for my consideration is, whether the respondents have failed to deliver the possession of the complainant's booked flat on the agreed date and complainant is entitled to get refund of his amount with interest? My answer is in affirmative for the following reasons.

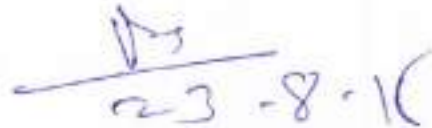
4. The complainant has produced the copy of the registered agreement for sale which shows that the respondents have agreed to deliver the possession of the booked flat on or before 31st March 2017. The complainant contends that till the date of complaint, the respondents have not handed over the possession of the flat. Hence, I hold that the respondents have failed to hand over the possession of the flat on the agreed date.

5. Section 18 of RERA gives an option to allottee to withdraw from the project and claim refund of his amount with interest on promoter's failure to complete the project on the agreed date. The complainant wants to withdraw from the project. Hence, he is entitled to get refund of his amount with interest at prescribed rate. The prescribed rate of interest is 2% above SBI's highest MCLR which is currently 8.5% p.a. The complainant is entitled to get interest from the date of payment of amount till their refund. The complainant has produced the extract of his account maintained by the respondents Exhibit C collectively. Since this is a copy of ledger of the complainant's account maintained by the respondents themselves, I find that the complainant is entitled to get the amount mentioned in Exhibit C collectively and also Rs. 10,000/- towards the cost of the complaint. Hence, the order.



ORDER

1. The respondent shall refund the amount received by them from the complainant mentioned in Exhibit C collectively and shall pay them with simple interest @ 10.5% p.a. from the date of their receipt till they are refunded. Exhibit C collectively shall form the part of this order.
2. The respondent shall pay the complainant Rs. 10,000/- towards the cost of the complaint.
3. The charge of the aforesaid amount shall be on the booked flat of the complainant till satisfaction of his claim.
4. On satisfaction of the claim, the complainant shall execute the Deed of cancellation in respondents' favour at their cost.



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

Mumbai
Date: 23.08.2018

Rupji constructions
Rupji Signature 801 (Rs 4895000)

2010-2011

Date	Cheque No	Bank	Amount	Particular
01.02.2011	254027	IDBI	979000	
			2500000	
			1521000	
			2500000	

2013-2014

Date	Cheque No	Bank	Amount	Particular
18.01.2014	751844	IDBI	250000	220000 Stamp Duty
11.02.2014			2160	30000 Registration
06.02.2014			25000	Cash
			277160	Cash Extra Stamp Duty

Particular	Amount
Total Amount	4395000
Total Payment till date	3811800
Balance Payment to builder	1083200
S.C / Registration & Cash	277160
Total ST paid till date	43155
MVAT	48950

2014-2015

Date	Cheque No	Bank	Amount	Particular
06.05.2014	841080	IDBI	48950	MVAT
20.10.2014	841136	IDBI	93700	1st Slab
20.10.2014	841137	IDBI	2895	Service Tax
06.01.2015	934080	IDBI	93700	Payment
06.01.2015	934081	IDBI	2895	Service Tax
24.01.2015	934085	IDBI	93700	Payment
24.01.2015	934086	IDBI	2895	Service Tax
18.02.2015	934094	IDBI	93700	Payment
18.02.2015	934095	IDBI	2895	Service Tax
02.03.2015	934099	IDBI	93700	Payment
02.03.2015	934100	IDBI	2895	Service Tax
			531925	

2015-2016

Date	Cheque No	Bank	Amount	Particular
24.04.15	934115	IDBI	93700	Payment
24.04.15	934116	IDBI	2895	Service tax
30.05.15	934130	IDBI	93700	Payment
30.05.15	934131	IDBI	2895	Service tax
10.07.15	934137	IDBI	93700	Payment
10.07.15	934138	IDBI	2895	Service tax
05.08.15	934146	IDBI	2895	Service tax
05.08.15	934147	IDBI	93700	Payment
18.09.15	934151	IDBI	93700	Payment
18.09.15	934152	IDBI	2895	Service tax
05.11.15	934173	IDBI	93700	Payment
05.11.15	934174	IDBI	2895	Service tax
25.11.15	125303	IDBI	93700	Payment
25.11.15	125304	IDBI	2895	Service tax
28.01.16	125318	IDBI	93700	Payment
28.01.16	125319	IDBI	3397	Service tax
28.01.16	125320	IDBI	1504	Balance service tax
			774766	

2016-2017

Date	Cheque No	Bank	Amount	Particular
13.08.16	125392	IDBI	93700	Payment
13.08.16	125393	IDBI	3514	Service Tax

MAPL

Rupji constructions
Rupji Signature 801

2014-2015

Date	Cheque No	Bank	Amount	Particular
20.10.2014	841136	IDBI	93700	Payment
06.01.2015	934080	IDBI	93700	Payment
24.01.2015	934085	IDBI	93700	Payment
18.02.2015	934094	IDBI	93700	Payment
02.03.2015	934099	IDBI	93700	Payment
			468500	
20.10.2014	841137	IDBI	2895	Service Tax
06.01.2015	934081	IDBI	2895	Service Tax
24.01.2015	934086	IDBI	2895	Service Tax
18.02.2015	934095	IDBI	2895	Service Tax
02.03.2015	934100	IDBI	2895	Service Tax
			14475	

2015-2016

Date	Cheque No	Bank	Amount	Particular
24.04.15	934115	IDBI	93700	Payment
30.05.15	934130	IDBI	93700	Payment
10.07.15	934137	IDBI	93700	Payment
05.08.15	934147	IDBI	93700	Payment
18.09.15	934151	IDBI	93700	Payment
05.11.15	934173	IDBI	93700	Payment
15.11.15	125303	IDBI	93700	Payment
			655900	
24.04.15	934116	IDBI	2895	Service tax
30.05.15	934131	IDBI	2895	Service tax
10.07.15	934138	IDBI	2895	Service tax
05.08.15	934146	IDBI	2895	Service tax
18.09.15	934152	IDBI	2895	Service tax
05.11.15	934174	IDBI	2895	Service tax
25.11.15	125304	IDBI	2895	Service tax
			20265	

Amt Recd from 01.4.12 to 31.05.15

Date	Cheque No	Bank	Amount	Particular
20.10.2014	841136	IDBI	93700	Payment
06.01.2015	934080	IDBI	93700	Payment
24.01.2015	934085	IDBI	93700	Payment
18.02.2015	934094	IDBI	93700	Payment
02.03.2015	934099	IDBI	93700	Payment
24.04.2015	934115	IDBI	93700	Payment
30.05.2015	934130	IDBI	93700	Payment
			655900	

Service Tax

Date	Cheque No	Bank	Amount	Particular
20.10.2014	841137	IDBI	2895	Service Tax
06.01.2015	934081	IDBI	2895	Service Tax
24.01.2015	934086	IDBI	2895	Service Tax
18.02.2015	934095	IDBI	2895	Service Tax
02.03.2015	934100	IDBI	2895	Service Tax
24.04.2015	934116	IDBI	2895	Service tax
30.05.2015	934131	IDBI	2895	Service tax
			20265	

Amt recd from 01.06.15 to 31.10.15

Date	Cheque No	Bank	Amount	Particular
10.07.15	934137	IDBI	93700	Payment
05.08.15	934147	IDBI	93700	Payment
18.09.15	934151	IDBI	93700	Payment
05.11.15	934173	IDBI	93700	Payment
			374800	

Service Tax

Date	Cheque No	Bank	Amount	Particular
10.07.15	934138	IDBI	2895	Service tax
05.08.15	934146	IDBI	2895	Service tax
18.09.15	934152	IDBI	2895	Service tax
05.11.15	934174	IDBI	2895	Service tax
			11580	

Modern Abodes (P) Ltd. - Rupji Signature
Ledger Account

matching & balancing

1-Apr-2001 to 31-Mar-2016

Date	Particulars	Vch Type	Debit	Credit
01-04-13	By Modern Abodes (P) Ltd. - Rupji Kkonum ✓	Journal		250000.00
06-05-14	By Bank of India A/c No. 340 ✓	Receipt		48950.00
06-05-14	To Mvat Payable	Journal	48950.00	
21-10-14	By Bank of India A/c No. 339 ✓	Receipt		93700.00
03-11-14	By State Bank of India - 517 ✓	Receipt		2895.00
03-11-14	To Service Tax Payable	Journal	2895.00	
07-01-15	By Citizen Credit Co.Operative Bank A/c No. 10032 ✓	Receipt		93700.00
07-01-15	To State Bank of India - 517 ✓	Receipt		2895.00
07-01-15	By Service Tax Payable	Journal	2895.00	
27-01-15	By Bank of India A/c No. 339 ✓	Receipt		93700.00
09-02-15	By State Bank of India - 517 ✓	Receipt		2895.00
09-02-15	To Service Tax Payable	Journal	2895.00	
18-02-15	By Citizen Credit Co.Operative Bank A/c No. 10032 ✓	Receipt		93700.00
02-03-15	By Citizen Credit Co.Operative Bank A/c No. 10032 ✓	Receipt		93700.00
02-03-15	By State Bank of India - 517 ✓	Receipt		2895.00
02-03-15	To Service Tax Payable	Journal	2895.00	
02-03-15	By State Bank of India - 517	Receipt		2895.00
02-03-15	To Service Tax Payable	Journal	2895.00	
24-04-15	By Idbi Bank	Receipt		93700.00
12-05-15	By State Bank of India - 517 ✓	Receipt		2895.00
12-05-15	To Service Tax Payable	Journal	2895.00	
01-06-15	By Idbi Bank	Receipt		93700.00
02-06-15	By State Bank of India - 517 ✓	Receipt		2895.00
02-06-15	To Service Tax Payable	Journal	2895.00	
11-07-15	By Idbi Bank	Receipt		93700.00
12-07-15	By State Bank of India - 517 ✓	Receipt		2895.00
12-07-15	To Service Tax Payable	Journal	2895.00	
05-08-15	By Idbi Bank	Receipt		93700.00
11-08-15	By State Bank of India - 517 ✓	Receipt		2895.00
11-08-15	To Service Tax Payable	Journal	2895.00	
21-09-15	By Idbi Bank	Receipt		93700.00
06-10-15	By State Bank of India - 517	Receipt		2895.00
06-10-15	To Service Tax Payable	Journal	2895.00	
06-11-15	By Idbi Bank	Receipt		93700.00
20-11-15	By State Bank of India - 517	Receipt		2895.00
20-11-15	To Service Tax Payable	Journal	2895.00	
26-11-15	By Idbi Bank	Receipt		93700.00
26-11-15	By State Bank of India - 517	Receipt		2895.00
26-11-15	To Service Tax Payable	Journal	2895.00	
			83690	3708090
	CLOSING BALANCE		3624400	

Rs 3708090

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