

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

COMPLAINT NO.CC005000000000292

Nitin Prabhakar Bhagwat.

.. Complainant.

V/s

Prateek Omprakash Agrawal .

..Respondent.

MahaRERA Regn.: P52100010458

Coram:

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

Complainant : Present in person.

Respondent : Absent- exparte.

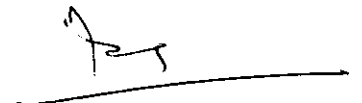
FINAL ORDER

4th December 2017.

The complainant has filed this complaint under Section 18 of Real Estate (Regulation and Development) Act, 2016 contending therein that he booked flat No. B-4, 101, Village Residency-III of the respondent's situated at Pune, Hingoli. The respondent agreed to give the possession of the said flat on tentative date 15.01.2017 by writing it on the allotment letter itself. Thereafter, the respondent by his email dated 28.12.2016 informed the complainant that the possession of the flat shall be given on or before 31st March 2017. The complainant has paid the respondent Rs. 20,00,000/- towards consideration. Therefore, the complainant withdraws from the project and seeks the refund of the amount paid by him with interest.

2. The respondent has failed to appear on 3.11.17 and 4.12.17 despite the notices of appearance have been issued. He has to appear on these days. Hence the matter proceeds exparte against him.

3. Heard the complainant in person. He brings to my notice the allotment letter in which it is clearly mentioned by the Respondent that



tentative date of possession would be 15.01.2017. He has also brought to my notice email of respondent dated 18.12.2016 showing that the possession of the flat would be given on or before 31.03.2017 but till the date, the possession of the flat has not been given. Hence, I record my finding that the Respondent has failed to deliver the possession of the flat booked by the complainant on the agreed date.

4. So far as the payment of Rs.20,00,000/- is concerned, the complainant relies upon the receipt issued by the respondent dated 10.09.2013 and on Bank Statement. Therefore, the complainant is entitled to get this amount back from the Respondent with interest from 10.09.2013 at marginal cost of lending rate of interest of SBI which is currently 8.05 % + 2 % p.a. till the realisation of the amount.

5. The complainant brings to my notice that when he booked the flat in the year 2013, the rate in the said area as per the ready reckoner issued by the Government authority was Rs. 25,000/- per sq. mtrs. and now in the year 2017, the rate as per the ready reckoner is Rs. 31,360/- per sq. mtrs. He will have to pay higher price he books a flat in the same area. Therefore, according to him, he has sustained the loss of Rs. 2,86,581/-, due to loss of opportunity. I agree with him. The complainant is also entitled to get Rs. 10,000/- towards the cost of complaint. Hence, order ordered.

ORDER

1. The respondents shall pay Rs. 20,00,000/- with simple interest at the rate of 10.05 % per annum from 10.09.2013.
2. The respondents shall pay compensation amounting to Rs. 2,86,581/- towards the loss of opportunity and Rs. 10,000/- towards the cost of the complaint.


(B.D. KAPADNIS)

Member & Adjudicating Officer,
MahaRERA, Mumbai.

Mumbai
Date: 04.12.2017.

महाराष्ट्र
आवेक क्र. 1417
दिनांक 21/12/2017
तारीख 12

मे. श्यावर संपदा प्राधिकरण महाराष्ट्र मुंबई जिल्हा कोर्ट

अर्ज नं. — 120910

तनिक सोमप्रकाश अग्रवाल — अपिलार्थी
विश्वदत्त

नितीन प्रभाकर भागवत — सामनेवाला

सदरकारी अपिलार्थी यांचेकडे विनंती अर्ज
खालीलप्रमाणे —

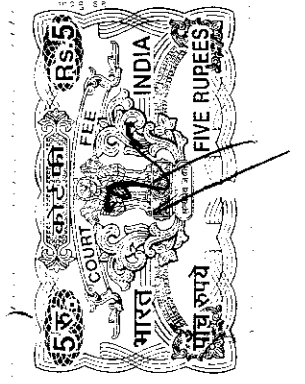
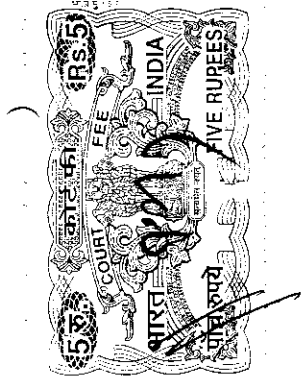
सदरकारी नारिष्य 8/12/2017 कोर्टी कॅबिनेट

केस नं. CC005000000000292 यामध्ये प्रस्तुत अपिलार्थी
(महा रेश अर्ज नं. P52100010458) यांचेकडे
मे. महाराष्ट्र श्यावर संपदा प्राधिकरण, मुंबई (श्री. वी.डी.
कपडमिस साहेब) यांचेकडे राकतफा (expone)
निकाल देण्यात आलेला आहे. प्रस्तुत अपिलार्थी यांना
सदरचा निकाल कोणत्याही बाजू मांडण्याची संधी दिली
गेलेली नाही याकडे ^{कावाला यास} सदरचा निकाल मान्य व कबूल
नाही. त्याकडे अपिलार्थी कामी वरिल तक्रार देखील
अंतिम निकालावर महाराष्ट्र श्यावर संपदा प्राधिकरण
अयदा, 2016 मधील कलम 36 अन्वये ^(interim order) अंतिमपणे
करणकारी प्रस्तुतचा अर्ज करणेत येत आहे.

तरी अपिलार्थी यांची विनंती की,

1) सदरकारी तक्रार अर्ज नं. CC0050000000
00292 वरिल राकतफा (expone) ^{अर्ज} याद्वारे जैशेथी
(अपेक्ष 940) असा अंतिम आदेश देण्यात येववावा.

2) प्रस्तुत अर्जाचे कामी मे. कोर्टी अपिलार्थी



Execution of the order is stayed for 30 days from the date of order 12.1.18

आंचे धान्ने योग्य ते हुकम करीत येववावेत.

३) एसंगी दुख्खीस परवानगी देववावी.

योग्यमाने किंती अर्ज असे.

मुंबई

ता. २०/१२/१७

Shauelhasi
सा. व. ला. ग. अ. उ. व. क. र. Adv.

Mob. 9411962950