

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000012682

Anil Vade and Others ... Complainants

Versus

Neha Hemant Agrawal ... Respondent
MahaRERA Regn.No. P51800008947

Corum:

Shri Gautam Chatterjee, Chairperson, MahaRERA

Complainants were represented by Ms. Megha Agrawal alongwith Mr. Anil Vade, Adv.

Respondent was represented by Ms. Sudeshna Guha Roy, Adv. (Vidhi Partners)

Order

March 21, 2018


1. Present complaint has been filed 38 complainants out of which 36 complainants have purchased apartments in the Respondent's project 'SIDDHI SAMARPAN' situated at Borivali, Mumbai via registered agreements for sale. They alleged that there is no date of handing over possession mentioned in the agreements for sale executed with the complainants, however, the Respondent on various occasions had promised various dates for handing over possession, the latest being November, 2017, but has failed to do so. The remaining two complainants have booked apartments in the said project and in spite of having paid upto 90% amount towards the consideration of their apartments, the Respondent has failed to execute and register the agreements for sale. They further alleged there were discrepancies in the carpet area as promised at the time of booking and as mentioned in the agreements for sale. Complainants stated that the Respondent has not uploaded the updated details regarding the progress of the said project in their registration webpage.



2. Complainants therefore prayed the Respondent be directed to handover possession of their apartments to them at the earliest and pay them interest as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*). Further, they prayed the Respondent be directed to execute and register the agreement for sale for the said two complainants. They also prayed the Respondent be directed to initiate the process of formation of Co-operative Housing Society as more than 51% of the bookings have been done in the said project. Further, they prayed the Respondent be directed to give bifurcation of the development charges demanded by the Respondent.
3. Advocate for the Respondent argued the project work has been delayed due to reasons beyond the control of the Respondent, however, the Respondent is now committing to handover possession of the said apartments by December 31, 2018. Further, she argued that at this stage the Respondent will not be able to execute and register the agreements for sale with the said two complainants as she has been estopped by an Arbitration Award dated January 22, 2018, which prevents the Respondent from creating any further third party rights in the said project. However, she submitted the Respondent is in the process of filing an appeal in the Hon'ble Bombay High Court against the said award and once the said award is set aside, the Respondent will execute and register the agreements for sale with the said complainants.
4. As per the provisions of the Rule 4 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 the revised date of possession for an ongoing project has to be commensurate with the extent of balance development.
5. In view of the above facts, the respondent shall, therefore, handover possession of the apartments, with Occupancy Certificate, to the Complainants before the period of November 30, 2018, failing which the respondent shall be liable to pay interest to the complainant from December 1, 2018 till the actual date of possession, on the entire amount paid by the Complainants to the Respondent. The said interest shall be at the rate as prescribed under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017.



6. Further, the Respondent shall share with the Complainants a copy of the Architect's Certificate giving clarification regarding the carpet area being allotted to each of the complainants. Respondent shall initiate the process of forming the Co-operative Housing Society within one month from the date of this Order. Further, the Respondent shall update the latest details of the said project on their registration webpage within 7 days from the date of this Order.
7. Since the said two complainants have already paid upto 90% towards the consideration price of their apartments, the Respondent shall make them a party in the appeal proceedings being filed against the said arbitration award so that their concerns are also presented before the adjudicating authority. Further, the Respondent shall not demand any further payments from the said two complainants till the time of executing and registering the agreements for sale.
8. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA