

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

COMPLAINT NO: CC006000000055389

ABBASI JHABUAWALA ... Complainant.

Versus

GOLDSTAR REALTORS ... Respondent.
MahaRERA Regn: P99000006550

Coram:

Hon'ble Shri Madhav Kulkarni.

Appearance:

Complainant: Absent

Respondent: Absent

Final Order

26th February, 2019

1. The complainant who had booked a flat with the respondent / builder seeks either withdrawal from the project with refund of the amount and compensation or possession and compensation as the respondent failed to deliver possession as per agreement.
2. The complainant has alleged that he booked flat No. 203 in Bldg. No. 1 in the project "Colours Discovery" now known as "Luxury Empire Township" at Kambalgaon, Taluka Palghar undertaken by the respondent. The complainant made payment towards consideration in April, 2012. The respondent had promised to complete the project within 4 years. However, the respondent failed to give possession. The complainant has paid Rs. 3,43,620/-. As the respondent committed default, the complainant has filed this complaint.

26.2.19

3. The matter came up before the Hon'ble Member on 10.10.2018. Both the parties were absent and matter came to be adjourned to 13.11.2018. On 13.11.2018 only complainant appeared and sought refund of amount paid with interest. The matter came to be transferred to Adjudicating Officer. On 19.12.2018 complainant appeared before me but respondent failed to appear. The matter was adjourned for ex parte hearing to 23.01.2019. On 23.01.2019 both the parties were absent.

4. Following points arise for my determination. I have noted my findings against them for the reasons stated below.

Points	Findings
1. Has the respondent failed to deliver possession Of the flat to the complainant as per agreement Without there being circumstances beyond his Control?	Affirmative
2. Is the complainant entitled to the reliefs claimed?	Affirmative
3. What order?	As per final order

Reasons.

5. Point no. 1 & 2 The respondent has failed to challenge the contentions made by the complainant. According to complainant he booked flat No. 203 in the project of the respondent at Kambalgaon previously known as "Colours Discovery" and now known as "Luxury Empire Township". The complainant claims to have made payment towards consideration of flat in April, 2012. The amount that is paid is said to be Rs. 3,43,620/-. Further, contentions of the complainant are that the respondent promised to complete the project within 4 years. That means in the year 2016. However, respondent has failed to complete the

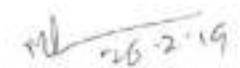
project and deliver possession. Since the respondent has failed to challenge the contentions raised by the complainant, the obvious conclusion will be that respondent has failed to deliver possession of the flat as per agreement without there being circumstances beyond his control. I therefore answer point No.1 in the affirmative.

6. The complainant claims to have paid Rs. 3,42,620/-. Whether it is inclusive of Stamp Duty is not known. In the event of cancellation of the agreement complainant will be entitled to refund of Stamp Duty as per Rules. The complainant therefore will be entitled to refund of the amount proved to have been paid except Stamp Duty which can be refunded as per Rules. I therefore answer point No. 2 in the affirmative and proceed to pass following order.

ORDER

- 1) The complainants are allowed to withdraw from the project.
- 2) The respondent to refund Rs. 3,42,620/- to the complainant except stamp duty amount if included in it which can be refunded as per rules together with interest @ 10.70% p.a. from the date of payments till final realisation as provided under Rule 18 of MahaRERA Rules.
- 3) The respondent to pay Rs. 20,000/- to the complainant as costs of this complainant.
- 4) The complainant to execute cancellation Deed at the cost of the respondent.
- 5) The respondent to pay the above amounts within 30 days from the date of this order.

Mumbai.
Date: 26.02.2019


(Madhav Kulkarni)
Adjudicating Officer,
MahaRERA