

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

Complaint No.CC005000000010925

**Vinod Mohan Salunkhe
Sou.Suvarna Vinod Salunkhe**

.. Complainants

Versus

**M/s.Shivtara Meredian Associates
through Partner Ravindra Laxman Dhumal
Shivtara Properties Pvt Ltd through
its Director Nilesh Shivaji Singh**

.. Respondents

**Coram : Shri M.V. Kulkarni
Hon'ble Adjudicating Officer**

Appearance :

Complainant : Complainant in person

Respondent : Exparte

FINAL ORDER

16-08-2018

1. The complainants who had booked a flat with the respondents/developers seek refund of the money paid with interest and penalty as respondents failed to deliver possession as per agreement. Since I am working at Mumbai & Pune offices in alternate weeks as per availability of dais and due to non availability of stenographer, this judgement is being delivered now.

[Signature]
16-8-2018

2. The complainants have alleged that they had booked a flat No.602 in 'D' Wing at Kunjirwadi, Taluka Haveli, District Pune with respondent on 17-7-2015. It is alleged that complainants was promised possession by 13-08-2017. Other necessary details are required to be fished out from the documents annexed to the complaint. Agreement was signed on 14-08-2015. The area of the flat is 572 sq.ft. The price agreed is shown as Rs.17,08,000/- Total amount paid is shown as Rs.15,54,000/- Date of delivery of possession mentioned in the agreement is 13-8-2017 i.e. two years since agreement. Since possession is not delivered, complainants seek refund of total amount paid alongwith interest and compensation.
3. Respondents one and two were not present on 3-4-2018, but advocate Potawale for respondent No.2 was present. Both respondents were absent on 17-4-2018 and exparte order came to be passed against them. On 29-5-2018 an application was filed by respondents to set aside exparte order, however no written explanation was filed. Again respondents and their advocates were absent on 13-6-2018. Arguments for complainant were heard on that day.
4. Following points arise for my determination. I have noted my findings against them for the reasons stated below:

POINTS

FINDINGS

1. Have the respondents failed to deliver possession of flat to the complainant as per agreement without circumstances beyond their control?

Yes

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16-8-2018

2. Is the complainant entitled to the reliefs claimed? Yes
3. What order? As per final order.

REASONS

5. Point Nos.1 & 2 The complainants have placed on record agreement dated 14-8-2015. The name of the project is missing. It is referred as said accommodation. In annexure 'D' name mentioned is Tara Alicia 'D' Building Flat No.602 at Kunjirwadi. The price agreed was Rs.17,08,000/- plus Rs.45,000/- electrical connection, Rs.20,000/- society formation, Rs.20,000/- club house charges, Rs.12,000/- maintenance for 12 months. As per clause-12 possession was to be delivered on or after two years. There is no dispute that possession has not been delivered.
6. The complainants have placed on record receipt dated 30-7-2015 for Rs.14,00,000/- and receipt for Rs.1,00,000/- dated 17-7-2015 and receipt for Rs.40,000/- dated 13-8-2015. Thus total amounts paid by the complainants comes to Rs.15,54,000/-.
7. There is absolutely no defence put up by the respondents. Consequently it is clear that the respondents have failed to deliver possession of the flat to the complainants as per agreement. The complainants are therefore entitled to withdraw from the project and refund of total amount. The complainants claim that they may be paid Rs.15,000/- per month as house rent since the date of default. However no evidence is adduced by complainants about their paying such a rent. They are entitled for interest on


16-8-2016

the amount due from the respondents as compensation. I therefore answer point No.1 and 2 in affirmative and proceed to pass following order.

ORDER

1. The respondents shall refund Rs.15,54,000/- to the complainants which were received from them with interest @ the State Bank of India highest Marginal Cost of Lending Rate plus two percent per annum prevailing as on date, which is refundable from the date of payment till actual realisation - (minus) the stamp duty which can be recovered by the complainants.
2. The complainants shall execute cancellation deed at the cost of the respondents.
3. The respondents shall pay costs of Rs.20,000/- to the complainants.
4. Charge of the above amounts shall be kept on the flat booked by complainants.
5. The respondent shall pay above amount within 30 days from the date of issue of this order.

Pune
Date :- 16.08.2018


(M.V.Kulkarni)
Adjudicating Officer,
MahaRERA