

MAHARASHTRA REAL ESTATE APPELLATE **TRIBUNAL UNDER RERA Act**

No.AT006000000000167

M/s. RTG Infrastructure & Realtors Ltd.
A company incorporated under the provisions
Of Companies Act having office situated at
3,Chapel Road, Nr. Jeff Caterers, Off Hill Road,
Bandra (W), Mumbai 400 050

.. Appellant

V/s.

1. Mr. Pradeep B.Singh
of Bombay, adult, Indian Inhabitant, presently
residing at Samata Coop Hsg. Soc.,
1st floor, Flat No.5, Pawai Chowk,
Ulhasnagar 421 003
2. Mr. Inderpal Singh Raghubir Singh Bhusari
And Harcharan Kaur Raghubir Singh Bhusari
of Bombay adult, Indian Inhabitant,
presently residing at 106, Madhur Villa Apt.
C Block Road, Ulhasnagar.
3. Mr. Satpreet Singh Raghubir Singh
Bhusari and Raghubir Singh Charan Singh Bhusari
Of Bombay adult Indian Inhabitant, presently
Residing at 106, Madhur Villa Apt. C Block
Road, Ulhasnagar
4. Mrs. Babita Baldeo Borkar
An inddian inhabitant
Presently residing at Babita Niwas
New Jimmibaig, Near Lokgram
Police Station, Kalyan (E)
5. Mr.Shashank Ganesh Dixit
An adult Indian inhabitant
Presently residing at 3/3 Anupam Bldg.
Vallipeet Road, Kalyan (West)

6. Mr. Laloo Singh Yadav and Asha L. Yadav
An adult Indian Inhabitants
Presently residing at Pragati Apt. II
1st floor, Chinchpadu Road,
Kalyan (East)
7. Mrs. Rohini Ravindra Kadam and
Mr. Ravindra Shankar Kadam
An adult Indian inhabitant
Presently residing at 203 G 11,
Neelkanth Dhara, Lal Chowki
Kalyan (West)
8. Mrs. Reena Abhay Bhanushali and
Mr. Abhay Chandrakant Bhanushali
An adult Indian Inhabitants
Presently residing at 202 / Shree Sai Darshan
Dharamveer Sambhaji Chowk,
Ulhasnagar.

.. Respondents

No.AT006000000000168

M/s. RTG Infrastructure & Realtors Ltd.
A company incorporated under the provisions
Of Companies Act having office situated at
3,Chapel Road, Nr. Jeff Caterers, Off Hill Road,
Bandra (W), Mumbai 400 050

.. Appellant

V/s.

Mr. Sagar Vikas Dhige
Of Bombay adult Indian Inhabitant,
Presently residing at Nandan 303,
Pawandham Complex, Gandhori Road,
Near Nikki Nagar, Kalyan West, Thane.

..Respondent

Adv. R.R. Verma in both the appeals for the Appellants.

Respondents Mr. Pradeep B. Singh Inderpal Singh, Raghubir Singh, Satpreet Singh Raghubir Singh, Babita Baldev Borkar, Shashank Ganesh Dixit, Laloo Singh Yadav, Rohini Ravindra Kadam, Reena Abhay Bhanushali, Sagar Vikas Dighe present.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 14th August, 2018
Dictated/Pronounced on: 15th August, 2018
Transcribed on : 15th August, 2018

:-ORAL JUDGMENT:-

Heard finally.

1. These two appeals are by one Promoter M/s. RTG Infrastructure challenging common order dated 18th January 2018 recorded in Complaint no. CC006000000023395 and CC006000000001417, which were filed by the Allottee.
2. There is no controversy between the Appellant and the Allottees about status of the Allottees to be the flat purchasers in the project of the Promoter and entering into various Agreements. The centre of controversy is interpretation of an Agreement dated 21st day of April 2016 between M/s. RTG Infrastructure (Appellant) and six allottees barring Smt. Babita, Sagar Dighe and Rohini R. Kadam. Mr. Verma says, an application for rectification of the order was moved with the Chairperson and it is pending. The order incorporates payment of rental from 1st May 2017 but it should have been 1st April, 2017 and prior thereto 30th April 2017 but in total it should have been exclusively effective from 1st May 2017 till handing over exclusive possession of the apartment if possession is further delayed.
3. In the Agreement dated 21st day of April, 2016 the Promoter has agreed to complete the project on or before 30th April 2017 and to communicate the flat purchasers about the same. The Promoter has also agreed to release rent of Rs.10,000/- per month if their offer is delayed in compliance of deadline i.e. 30th April, 2017. The first part of liability of the rental amount would be effective from 1st April 2016 to 30th April 2017 in lumpsum payment to the complainant on or before 1st May 2017 and monthly rent of Rs.10,000/- from 1st May 2017 till getting actual possession of the flat premises.
4. Reading the aforesaid Agreement, no other meaning could be drawn as Mr. Verma suggested that the liability of the Promoter starts from 1st May, 2017 and not 1st April 2016 or 1st July 2017. The terms of agreement being explicitly clear and distinct, no scope is available to the Promoter to challenge the very order dated 18th January, 2018.
5. It is curious that clause (4) of the order informs that when the hearing was going on the Promoter and the complainant agreed to abide by the terms of notarized Agreement dtd. 21st April 2016 and it was also agreed upon that the Promoter to ensure that it is complied within 30 days of the order dated 18th January 2018.



6. Subsequent order of the Ld. Chairperson dated May 24, 2018 in Complaint CC0060000000023395 of Nitin v/s. RTG will not accelerate grievance of the Appellant to have Appellate Order in the same tune and tone. It may be in the complaint of Nitin, there was a Joint Agreement and Promoter and his partner had agreed to share the liability. Same is not the case with the Respondent in the present two appeals.
7. Another lame excuse raised by Mr. Verma is that Smt. Babita, Sagar Dighe and Rohini R. Kadam were not signatories to the Agreement dated 21st April 2016. Even if this is so, they were Complainants in the original complaint and no distinction was carved by the Appellant as Promoter to avoid the liability of payment in respect of those three complainants. There was no whisper to this effect and to repeat, the orders of the chairperson were solicited by consent. Hence it is not now open for the Appellant to question the legality, correctness or otherwise frame of the orders under challenge.
8. No merits in the appeal. Appeal is dismissed.

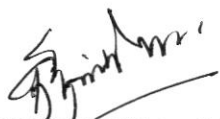
:- ORDER :-

1. Appeal no. AT006000000000167 and AT006000000000168 dismissed.
2. The Appellant to pay costs of Rs.5000/- to each of the Respondents in the Appeals. within a period of 60 days from today.
3. The payment made by the Appellant in compliance with Sec. 43(5) – Proviso RERA while entertaining the appeal shall be appropriated to the individual account of the Allottees / Respondent in the appeals. If arrears is fully satisfied, the appellant promoter to release monthly amount of ₹10,000 to each allottee as was directed by Ld. Chairperson in the order Dt. 18th January 2018.

Dictated and pronounced in open Court today.

Place: Mumbai

Dated: 14th August, 2018


(K. U. CHANDIWAL, J.)
President,
Maharashtra Revenue Tribunal,
Mumbai
& I/c. Maharashtra Real Estate
Appellate Tribunal, (MahaRERA),
Mumbai