

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

COMPLAINT NO: CC006000000078356.

Vithal Kondiba Jawade

... Complainant.

**Versus**

ENKAY CASTLE  
( ENKAY GARDEN - DAISY-DALIYA)

...Respondent.

MahaRERA Regn: P52000009573.

**Coram:** Shri B.D. Kapadnis,  
Hon'ble Member & Adjudicating Officer.

**Appearance:**  
Complainant: In person.  
Respondent: Exparte.

**FINAL ORDER**  
**27<sup>th</sup> March 2019.**

The complainant contends that he booked flat no. 403, B-wing in the respondent's registered project 'ENKAY GARDEN - DAISY-DALIYA' situated at Vavanje, Panvel, District Raigad. The respondent agreed to hand over the possession of the flat within one year from the date of the agreement for sale dated 19.01.2015 but he failed to hand over the possession of the flat on agreed date. Therefore, the complainant seeks refund of his amount with interest and/or compensation under Section 18 of RERA.

2. The respondent has failed to appear despite the notice. Therefore, the complaint proceeds exparte against him.



3. The complainant has brought to my notice the copy of the agreement for sale dated 19.01.2015 which shows that the respondent agreed to hand over the possession of the flat within one year from the date of agreement. Thus, the agreed date of possession is 18.01.2016. The project is stuck since long and hence, the complainant withdraws from the project and claims refund of his amount with interest. He has paid Rs. 12,50,000/- during 2010-2011 towards consideration. He has paid Rs. 85,000/- on stamp duty and paid Rs. 18,910/- towards registration charges of the agreement for sale on 24.01.2015. The respondent has failed to hand over the possession of the flat on agreed date hence the complainant withdraws from the project. In this situation he is entitled to get refund of his amount of consideration and registration charges with interest at the prescribed rate from the date of payment till the refund. On cancellation of agreement for sale the complainant is entitled to get refund of the stamp duty within five years of agreement as per Section 47 & 48 of Maharashtra Stamp Act. The prescribed rate of interest is 2% above SBI's highest MCLR which is currently 8.55%. He is also entitled to get Rs. 10,000/- towards the cost of the complaint. Hence, the order.

#### **ORDER**

The respondent shall refund consideration amount Rs. 12,50,000/- and registration charges Rs. 18,910/- to the complainant with simple interest at the rate of 10.55% per annum from the date of payment mentioned in payment format marked Exh 'A' till refund.

Exh 'A' shall form part of this order.



The respondent shall pay the complainant Rs. 10,000/- towards the cost of the complaint.

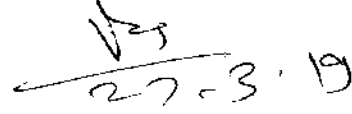
The charge of the aforesaid amount shall be on the booked flat till the satisfaction of the complainant's claim.

The complainant, shall execute the deed of cancellation of the agreement for sale at respondent's cost on satisfaction of his claim.

It is hereby clarified that in case of non-cancellation of the agreement for sale within five years from its execution, the respondent shall pay the complainant stamp duty of Rs. 85,000/- also with interest at the above mentioned rate.

Mumbai.

Date: 27.03.2019.



( B. D. Kapadnis )  
Member & Adjudicating Officer,  
MahaRERA, Mumbai.

