

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI**

Appeal No. AT005000000010496

Along with

Appeal No. AT005000000010497

*(Mr. Nayan Nanasaheb Gandhi
V/s.
M/s. Kolte Patil Real Estate Pvt. Ltd. & Ors.)*

*(Adv. Harshad A. Sathe, Advocate for Appellant.
Adv. Chikode, Advocate for Respondents)*

CORAM : SUMANT KOLHE, MEMBER (J)

DATE : 30th Sept., 2019.

Ld. Counsel for both the parties are present.

For reasons separately recorded, the following order is passed :

ORDER

(PART- I)

1] Appeal No. AT005000000010497 is partly allowed.

2] Complaint No. CC0050000000011103 is partly allowed as under :

(i) The promoters are directed to refund the amount to allottee along with interest from the date of payment of such amount till its realization.

(ii) Interest shall be at the rate prescribed under Rule 18 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.

(iii) Amount and interest as per above directions shall be paid as per following instalments –

(A) The principal amount of Rs.2,32,97,043/-(Two Crore Thirty Two Lacs Ninety Seven Thousand Forty Three) shall be refunded in 2 (two) instalments.

(a) First instalment to the extent of 50% of principal amount i.e. Rs.1,16,48,522/-(One Crore Sixteen Lacs Forty Eight Thousand Five Hundred Twenty Two) shall be paid within 3 (three) months from the date of this order and second instalment of remaining 50% of principal amount i.e. Rs.1,16,48,522/- (One Crore Sixteen Lacs Forty Eight Thousand Five Hundred Twenty Two) shall be paid within 6 (six) months from the date of this order.

(B) The total interest shall be paid in two instalments as under –

(b) First instalment of interest to the extent of 50% of total interest shall be paid within 9 (nine) months from the date of this order and second instalment of interest to the extent of 50% shall be paid within 12(twelve) months from the date of this order.

(c) While calculating the total interest on principal amount, there shall be no payment of interest on interest as mentioned in para 29 of judgment.

3. No separate compensation under Sec. 71 of RERA, 2016 is awarded.

4. The charge of principal amount shall be on three shops till realization of principal amount in 2 (two) instalments or otherwise till satisfaction of refund of total principal amount to the allottee.
5. On satisfaction of claim of refund of principal amount, the allottee shall execute the deed of cancellation of transaction as per provisions and requirements of law at the cost of the allottee in favour of the promoters.

PART-II

- 1) Appeal No. AT005000000010496 is dismissed.
- 2) Complaint No. CC0050000000011033 is dismissed.
- 3) The allegations of breach or violation of provisions of MOFA, 1963 or RERA, 2016 as made by allottee against the promoters are not substantiated and proved. So, prayer for initiating the prosecution and imposing penalty or punishing the promoters is rejected.
- 4) The parties to bear their respective costs throughout.

- 5) Copy be sent to the promoters and allottee and MahaRERA Authority as per Sec.44 Sub sec. 4 of RERA, 2016.
- 6) Original judgment be kept in Appeal No.AT005000000010497 and copy be maintained in Appeal No.AT005000000010496.

RMB/-


(SUMANT KOLHE)