

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

No.AT006000000000139

1.Maulik Kirti Mehta
2. Kiran Kirti Vagher
601, Mount-View, Yogi Hills,
Near Swapna Nagari,
Off Rajeshvar Road, Mulund (W),
Mumbai 400 080
V/s.

.. Appellant/s

Nirmal Lifestyles Ltd.
3rd Floor, Multiplex Building, Nirmal Lifestyle,
LBS Marg, Mulund (W), Mumbai 400 080.

..Respondent/s

C.A. of Appellant Shri Ramesh Prabhu present.

Shri Rahul Ektare for Nirmal Lifestyles Ltd.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 24th May, 2018
Dictated/Pronounced on: 24th May, 2018
Transcribed on : 24th May, 2018

-:ORAL JUDGMENT:-

1. The allottee has questioned correctness of the order recorded by Member-1, MahaRERA dated 5th January, 2018 whereby the Authority has accepted the undertaking of the Promoter to refund all the amount within a period of six months from the date of the complaint on completion of the cancellation procedure.
2. The compass of controversy does not require deliberation on several facets argued and referred by both the sides. The agreement is dated 30th January, 2016, possession date incorporated was December, 2019. I quite see that in the factual situation there was no cause of action to file the complaint to the allottee. The Allottee should have been satisfied

on the Undertaking by the Promoter. However, the apprehension nursed by the allottee of delay in refund of the amount needs consideration. This fact is missing in the order under challenge.


-:ORDER:-

1. Appeal dismissed.
2. The order under challenge remain unaltered except an addition that the Promoter / Builder shall refund the amount payable to the Appellant / Allottee with interest of 10.50% p.a. from 5th January 2018. Till entire payment is released to the Appellant there shall be charge on the flat in question. Simultaneously, the formalities for cancellation from the allottee shall commensurate within a period of 3 months.

Dictated and pronounced in open Court today.

Place: Mumbai

Dated: 24th May, 2018


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

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

(4)

No.AT006000000000139

1. Maulik Kirti Mehta

2. Kiran Kirti Vagher

.. Appellant/s

V/s.

Nirmal Lifestyles Ltd.

..Respondent/s

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
President, Maharashtra Revenue Tribunal, Mumbai
& I/c. Maharashtra Real Estate Appellate Tribunal
under Maharashtra RERA Act
DATED:-24th May, 2018

-: **ORDER** :-

Called at 3.30 p.m.

C.A. of Appellant Shri Ramesh Prabhu present.

Shri Rahul Ektare for Nirmal Lifestyles Ltd.

The Promoter/respondent has sought an adjournment due to absence of Advocate.

Though adjournment is sought after hearing the parties, final order is recorded.

F.R.S.R. the Appeal **No.AT006000000000139** is finally disposed off with the following Order:

-: **ORDER** :-

1. The allottee has questioned correctness of the order recorded by Member-1 MahaRERA dated 5th January, 2018 whereby the Authority has accepted the undertaking of the Promoter to refund all the amount within a period of six



months from the date of the complaint on completion of the cancellation procedure.

2. The compass of controversy does not require deliberation on several facets argued and referred by both the sides. The agreement is dated 30th January, 2016, possession date incorporated was December, 2019. I quite see that in the factual situation there was no cause of action to file the complaint to the allottee. The Allottee should have been satisfied on the Undertaking by the Promoter. However, the apprehension nursed by the allottee of delay in refund of the amount needs consideration. This fact is missing in the order under challenge.
3. The order under challenge remain unaltered except an addition that the Promoter/Builder shall refund the amount payable to the Appellant / Allottee with interest of 10.50% p.a. from 5th January 2018. Till entire payment is released to the Appellant there shall be charge on the flat in question. Simultaneously, the formalities for cancellation from the allottee shall commensurate within a period of 3 months.



Place: Mumbai (K. U. CHANDIWAL, J.)
Dated: 24th May, 2018 President,
Maharashtra Revenue Tribunal,
Mumbai
& I/c. Maharashtra Real Estate
Appellate Tribunal, (MahaRERA),
Mumbai