

MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL UNDER RERA Act

No.AT005000000000004

Chandra Shekhar Singh
A-504, 10 Vrindavan Society,
Dhanori Road, Dhanori,
Pune 411 015.

.. Appellant/s

V/s.

M/s.Kul Developers Pvt. Ltd.
Kumar Business Centre, 10th floor,
CTS No.29, Opp. Pune Central,
Bundgarden Road,
Pune 411001

.. Respondent/s

Adv. Ninad Deshpande for the Appellant

Adv. Nilesh Gala appeared for Respondent / Developer.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 20th March, 2018
Dictated/Pronounced on: 20th March, 2018
Transcribed on : 21st March, 2018

-:ORAL JUDGMENT:-

- 1) Heard finally.
- 2) The order dtd. 2nd Jan. 2018 of Ld. Member and Adjudicating Authority of MahaRERA, Mumbai is subject of challenge. There is no controversy of the Appellant booking a flat in the ongoing project of the Respondent and having released 76% of the value. The Agreement in favour of the Appellant provides about handing over possession within a period of 5 yrs. which means that the Respondent was bound under the law to give possession on or before 10.04.2020. Another facet of grievance emerged during the argument is the 30 feet wide road near river side, as proposed to tune with the grant of permission by Urban Development Dept. dated 4.4.2008, has not taken shape as yet. The grievance is, in the absence of such accessibility to the Tower, it will be a herculean task for the appellant to approach the apartment with a peaceful mind. Ld. Counsel says the dream of the Appellant to have a well developed city at the behest of respondent is fractured as the project is tried to be implemented phase-wise which will take another five years or so.

The Ld. Counsel for the Respondent on instruction says whatever were the commitments effected / made at the time of Agreement and incorporated in the Brochure shall be strictly adhered to on the date of handing over possession to the appellant.

3) So far as the 30 ft. prop. Regional road is concerned, the Ld. Counsel for the respondent says that it is for Municipal Corporation, Pune to construct it.

4) In fact, it is for the respondent to discharge obligation under the law and responsibility cast on it in respect of laying of the road for approach, the responsibility can't be shifted to the shoulders of Municipal Corporation, Pune as the order of Urban Development Dept. dtd. 4.4.2008 is specific. Ultimately the flat purchaser is concerned with access and naturally it would be the responsibility to comply the obligation by respondent.

5) Taking overall effect of the order dtd. 2nd Jan. 2018, I find that the Ld. Member and Adj. Officer has discussed all the issues advanced and the legal position initiated in terms of Sec. 4 (2) (C) of RERA.

6) The Order has indeed cast responsibilities on the respondent / developer to adhere scrupulously in the time frame and also to upload Completion Certificate as mandated under Sec. 4 (2) (C) of RERA within a month from the order i.e. 2nd January, 2018.

7) In totality, since the date of handing over possession of the apartment has not yet reached and it being on 10.4.2020, the apprehension nursed by the appellant, are imaginary and illusory. The order under challenge takes care to protect interest of the appellant. Hence no interference.

:ORDER:


1) Appeal dismissed.

2) No costs.

3) The respondent to abide the directions dtd. 2nd Jan. 2018 of Ld. Member and Adjudicating Officer, MahaRERA, Mumbai including ensuring laying of 30 mtr. wide proposed Regional Plan road earmarked in the Notification dtd. 4.4.2008.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 21st March, 2018


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