

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

COMPLAINT NO: CC006000000056012

Uday Bhatu Wag ... Complainant.

Versus

Bhoomi & Arkade Associates ... Respondent.
MahaRERA Regn: P99000007415

Coram:

Hon'ble Shri Madhav Kulkarni.

Appearance:

Complainant: Absent

Respondent: Shreenevasan Acharya

Final Order

25th January 2019

Complainant whose complaint No. 1449 was decided by Hon'ble Chairperson on 18.01.2018 has filed this complaint for refund of stamp duty.

2. Complainant has alleged that in the earlier order it was observed that Stamp Duty was Statutory amount. The Appellate Tribunal declared the sale agreement between complainant and respondent/builder to be terminated/cancelled. Stamp Duty is not at all mentioned in Clause 6 of the Sale Agreement. The order of the Appellate Tribunal Cancelled the Sale Agreement. This has resulted into financial loss of Rs. 1,85,700/- to the complainant. The complainant has filed this complaint without prejudice his right to appeal to the High Court against the order of Appellate Tribunal.

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3. On 25.10.2018 when the matter came up before me the complainant failed to attend. It appears that complainant has sent a mail communicating that he had filed complaint with the police. The complainant did not appear on 27.11.18 or 19.12.2018. The respondent has filed written explanation on 19.12.2018.

4. Respondent has alleged that order in complaint No. 1449 was passed by Authority on 18.01.2018. The Appellate Tribunal passed order in Appeal No. 274 on 29.05.2018. The complainant has accepted the amount as per order. The complainant has filed false claim. The complainant therefore cannot seek review of the order dated 18.01.2018. The respondent had offered to execute cancellation deed. The complainant has refused to co-operate. The complainant is estopped from re-agitating his claims on the principles of res judicata.

5. On the basis of rival contentions of the parties following points arise for my determination. I have noted my findings against them for the reasons stated below.

Points

Findings

1. Is the complainant entitled to the reliefs claimed? Negative
2. What order : As per final order

Reasons

Point No. 1.: The complainant has alleged that the Authority in its Order wrongly mentioned that Stamp Duty was a statutory amount and therefore deducted that amount. Further that the Appellate Tribunal declared the sale agreement with Builder to be terminated/cancelled. Further that the complainant has lost the stamp duty fee because of this reason. The order passed by the Hon'ble Chairperson dated 18.01.2018 shows the submissions on behalf of respondent in para 2. In para 7 it is

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observed that the matter is hereby disposed of by directing respondent to refund the amount within 30 days, in accordance with the provisions contained in the Agreement for Sale without forfeiture of earnest money as has been agreed by respondent. Hon'ble President of the Appellate Tribunal passed the judgement on 29.5.2018 in the Appeal filed by Financer HDFC Ltd. Hon'ble Appellate Tribunal terminated the tripartite agreement and agreement for sale. The contention of the complainant that MahaRERA Authority wrongly assumed and mentioned stamp duty amount to be deducted as statutory amount does not appear to be correct. Also it was Hon'ble Appellate Tribunal which terminated the agreement for sale. Under such circumstances second complaint on same set of facts will not be tenable in my opinion. I therefore, answer point no. 1 in the negative and pass following order.

ORDER

The complaint stands disposed of in view of the observations as above.

No order as to costs.

Mumbai.
Date: 25.01.2019


(Madhav Kulkarni)
Adjudicating Officer,
MahaRERA