

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

No.AT006000000000054

Mrs. Bhavana Duvey
501 B, Basant Bahaar, Baner Pasher Link Road
Pune 411 045
V/s.

.. Appellant/s

Teerth Realities
Office No. 102, Sai Empire Near ICICI Bank,
Baner Road, Pune

..Respondent/s

Appellant present in person.

Respondent served. The Respondent was absent.

Matter kept back.

Later on at 4.15 same appearance. Respondent / Promoter called. Absent.
Promoter duly served on 22nd May, 2018 by MahaRERA and by the appellant
on 23rd May, 2018 by e-mail. Promoter was absent.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 24th May, 2018
Dictated/Pronounced on: 24th May, 2018
Transcribed on : 25th May, 2018

-:ORAL JUDGMENT:-

Heard finally.

1. The allottee feels aggrieved by order dated 27th November 2017 recorded by the Ld. Member- 1 MahaRERA, Mumbai dismissing the complaint on the ground that she has received possession of the flat on 24th February, 2017.



2. The observation of Ld. Member-1 of receiving possession of the flat on 24.2.2017, are not correctly borne out from the available record. The letter dated 24.2.2017 issued by the Promoter Teerth Developers illustrate it is a license to enter into the Flat no 402 on 4th floor in pursuance to the Agreement of Sale dt. 26th October 2014 registered on 27th August. 2014. The License illustrate that it is only for competing fit out of furniture, fixtures, electrifications etc. Regular occupancy will be subject to completion / completion certificate being received from the competent authorities. As it is, it a matter of record that the respondent has received Occupancy Certificate ^{SH} incorporated with MahaRERA on 2nd March 2018 thus there was no handing over possession in legal terms as on 24.2.2017 as sought to be explained by the respondents.
3. It was only on the statement ^{2M} of the Adv for Promoter, the Ld. Member considered the fact of receiving possession, prior to commencement of RERA Act, 2016 and hold that MahaRERA has no jurisdiction to entertain the complaint.
4. The factual situation, as discussed hereinbefore amply illustrate that it was an eye-wash of the developer to incorporate having handed over possession on 24th February 2017. The date of occupancy made after registration of the ^{has} project with MahaRERA, naturally the impetus effect, and enforcement of the RERA Act will squarely apply. Thus the centre point in the matter is , receiving occupancy certificate and thereafter in legal terms handing over possession to the allottee / appellant. Record also illustrate, the date of Agreement was 27.8.014. Possession date incorporated was 30th Oct. 2015 and the Occupancy Certificate is received on 2nd March, 2018. The agreement provided for payment of interest by either side on account of delay in either payment or handing over possession.
5. Taking recourse to above fact, the order under challenge therefore calls for interference as the approach of the Respondents was demonstrably chicanery and it was a cooked story to come out of rigour of RERA Act. Hence, the matter warrants remand to be heard by the Ld. Member-1 or by the Adjudication Officer as the case may be,

:-ORDER:-


1. Appeal partly allowed.
2. The order dated 27th Nov. 2017 is set aside.



3. The matter is remanded to the Ld. Member-1 or Adj. Officer of MahaRERA Mumbai to be decided on merits.
4. The Authorities are requested to re-visit the facts supported by documents and take an appropriate decision.
5. The parties to appear before MahaRERA Authorities on 3rd July, 2018.
6. Necessary Notices be issued to both the sides.
7. No costs.

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**

(8)

No.AT006000000000054

Mrs. Bhavana Duvey

.. Appellant/s

V/s.

Teerth Realities

..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 4.15 p.m.

Appellant present in person.

Respondent served. The communication to the Respondent is by RERA Authorities and equally by the Appellant/ Allottee. The Respondent was absent.

Matter kept back.

Later on at 4.15 same appearance. Respondent / Promoter called. Absent. Promoter duly served on 22nd May, 2018 by MahaRERA and by the appellant on 23rd May, 2018 by e-mail. Promoter was absent.

Heard finally.

F.R.S.R. the Appeal is partly allowed with the following final Order:

:- ORDER :-

1. Appeal **No.AT006000000000054** the appeal is partly allowed.
2. The order dated 27th Nov. 2017 is set aside.



3. The matter is remanded to the Ld. Member-1 or Adj. Officer of MahaRERA Mumbai to be decided on merits.
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Place: Mumbai
Dated: 24th May, 2018

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