

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

COMPLAINT NO: CC0060000000054723.

Dilip M. Muni

... Complainant.

Versus

M/s. Monarch & Qureshi Builders
(Evershine Cosmic)

... Respondents.

COMPLAINT NO: CC0060000000054725.

Gautam B. Patel

... Complainant.

Versus

M/s. Monarch & Qureshi Builders
(Evershine Cosmic)

... Respondents.

MahaRERA Regn: P51800009046

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Appearance:

Complainant: Adv. Shweta Merchant i/b Solicis

Lex

Respondents: Adv. Krishna Agrawal.

FINAL ORDER

17th September 2018.

Mr. Dilip Muni contends that initially he booked flat no. 1901, A-Wing in Evershine Cosmic project of the respondents and paid its 90% consideration. Thereafter Memorandum of Understanding was signed by the parties on 10.05.2017. Both the parties have agreed that the respondents



shall buy back flat no 1901 allotted on 17.06.2010 for Rs. 2,20,90,000/- and in lieu of the said payment they allotted flat nos. 1103 & 1208 of C-Wing, in respondents' sister concern Ravi Developments' Gaurav Wood Project - II situated at Navghar.

2. Mr. Gautam B Patel contends that initially he booked flat no. 1801, A-Wing in Evershine Cosmic project of the respondents and paid its 90% consideration. Thereafter Memorandum of Understanding was signed by the parties on 10.05.2017. Both the parties have agreed that the respondents shall buy back flat no 1801 allotted on 17.06.2010 for Rs. 2,20,90,000/- and in lieu of the said payment they allotted flat nos. 1007 & 1101 of C-Wing, in respondents' sister concern Ravi Developments' Gaurav Wood Project - II situated at Navghar.

3. The respondents agreed to deliver the possession of the above mentioned flats on or before 30.06.2017. However, they failed to hand over the possession of the flats on the agreed date. Hence, the complainants withdraw from the project and claim their amount with interest and/or compensation under Section 18 of RERA.

4. The respondents have filed the reply to contend that there is no agreement for sale of the flats and therefore, they request to dismiss the complaints.

5. The respondents have not disputed the fact that Mr. Dilip Muni and Mrs. Rekha Muni initially booked the flat no. 1901, A-wing of their Evershine Cosmic and they paid Rs. 90,00,000/- on 27.01.2010 towards its consideration. Thereafter, both the parties signed the Memorandum of Understanding whereby the flat nos. 1103 and 1208 Gaurav woods phase II have been allotted out of the consideration of Rs. 2,20,90,000/- when the respondents bought back flat no. 1901. Similarly, the respondents have not disputed the fact that Mr. Gautam Patel booked the flat no. 1801, A-wing of Evershine Cosmic and paid Rs. 90,00,000/- in the year 2010 only. Thereafter the respondents by signing the Memorandum of



Understanding bought it back for Rs. 2,20,90,000/- and allotted flat nos. 1007 & 1101 of C-Wing of Gaurav Woods. The complainants have produced copies of the Memorandum of Understanding, showing that the respondents have mentioned therein that they shall hand over the possession of the aforesaid flats on 30th June 2017. Admittedly, the respondents have not handed over the possession till this date, hence, complainants have filed these complaints under Section 18 of RERA.


6. The complainants have filed these complaints against M/s. Monarch & Qureshi Builders but the project in which the complainants booked flats are situated in Gaurav woods phase II and its developer is Ravi Developments. Its partners are Mr. Ketan Tokershi Shah and Jayesh Tokershi Shah. This is a different project registered at P51800011407 with MahaRERA. The complaints therefore, are not maintainable against the respondents. The complaints ought to have been filed against Ravi Developments. This fact was brought to the notice of the learned advocate of the complainants who took two days' time to take instructions from the complainants. The learned advocate has not reported the complainants' decision even after two weeks. Hence, there is no other alternative, but to pass the following order.

ORDER

The complainants are dismissed with cost.

Mumbai.

Date: 17.09.2018.


17-9-18
(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.