

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

COMPLAINT NO: CC006000000044556.

M/s. Anjaneya Land And Property Developers
Pradeep Syntex Pvt. Ltd.

... Complainants.

Versus

M/s. Samarth Krupa Developers
Mr. Ritesh R. Desai
Mr. Onkar U. Sawant
(Tagore Nagar Nandadeep CHS Ltd.)

... Respondents.

MahaRERA Regn: P51800012775

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

Appearance:

Complainant: Mr. Naresh Mehta.

Respondents: Adv. Mr. Omkar Sawant.

Final Order.

30th October 2018.

The complainants contend that the respondents have undertaken to redevelop Nandadeep CHS project situated at Kurla. The respondents are going to construct 81 apartments out of which 32 apartments are going to be allotted to members of the society. The respondents while registering the project with MahaRERA have mentioned that they have sold 18 apartments.

2. The respondents were in need of money for completing the project and therefore, the complainant no. 2 paid them Rs. 2,01,28,868/- by entering into Joint Venture Agreement on 9th July 2009. However, the Joint Venture Agreement could not take off and hence instead of giving back the money respondents entered into agreements with the complainant no. 2 for allotting 10 flats in lieu thereof. The respondents executed the sale agreements of 05.06.2017 and registered them.



3. The respondents approached the Complainant No. 1 to ask him to invest the money and the complainant no. 1 agreed to give bank guarantee of Rs. 80,00,000/- to the society as fixed deposit and the bank issued a bank guarantee to the society on respondents' behalf. The respondents, therefore, agreed to allot two flats from free sale component and two agreements on 5th June 2017 have been entered into by the complainant no. 1 with the respondents. It is the grievance of the complainants that though the respondents agreed to sell 12 flats out of sale component of the project, they have not shown these twelve flats as sold while the registering the project and contravened section 4 of RERA.

4. The respondents have filed their reply to contend that the complainants are their partners by virtue of joint venture agreements and therefore, this complaint regarding their disputes inter se is not maintainable. They deny the cancellation of joint venture agreement dated 09.07.2009. According to them, the eleven agreements upon which the complainants rely are fake documents hence, they request to dismiss the complaint. During the course of the argument the learned advocate of the respondents have also referred to the letter of the complainant no. 1 addressed to Dena Bank on 30.03.2018 and the letter of Dena Bank addressed to the respondents on 12.06.2018 to submit that the complainant no. 1 wants to take back the fixed deposit receipts and thereby wants to withdraw bank guarantee which formed consideration for two flats allegedly allotted to the complainant no. 1.

5. Heard the learned advocates of the parties and perused the documents.

6. As per Rule 4(3)(a) of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate projects, registration of Real Estate Agents, Rate of Interest and disclosures of website) Rules, 2017, the promoter is required to disclose the number of apartments sold or allotted




to the allottees. The respondents have not shown the figure of the flats agreed to be sold to the complainants.

7. The respondents contend that the complainants are the promoters of the project because there is joint venture agreement. However, in the agreements for sale executed in favour of the complainants it is clearly mentioned that the joint venture agreement has been cancelled and therefore, there is no force in the submission of the respondents that the joint venture agreement is in force. The respondents have not disclosed the names of the complainants as promoters and they have not uploaded the joint venture agreement on the webpage of their project. In view of this circumstance, they are estopped from asserting that the complainants are the promoters of the project. Even if it is taken for granted that they are the promoters and if there is dispute between them, especially when the genuineness of the agreements of the sale has been denied by the respondents, it is for the respondents to get their issues resolved by taking the action according to the law. The agreements hold the field as on date because no court of law has declared them as fake and bogus documents as contended by the respondents. Be that, as it may.

9. The complainants have produced the registered agreements for sale of the flats of the respondents' project on record. Hence they are allottees. The documents will have to be considered as they are by giving them their face value. In view of this fact, I find that the respondents are required under Section 4 of RERA and Rule 4(3)(a) of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate projects, registration of Real Estate Agents, Rate of Interest and disclosures of website) Rules, 2017 to include the number of the flats agreed to be sold to complainants and disclose the total number of sold / allotted flats on the webpage of their project.


10. In the facts and circumstances of the case I restrain myself from imposing the penalty on the respondents for contravening Section 4 of



RERA and Rule 4 framed thereunder. In order to meet the ends of justice, I direct the respondents to add the number of the flats agreed to be sold to the complainants in the Column of sold/allotted flats of their webpage within 30 days from this order.

Mumbai.

Date: 30.10.2018.


30.10.18
(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.