

**BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY  
AUTHORITY, PUNE**

**Complaint No.CC005000000057304**

**Suchitra Vijaykumar Telore**

**.. Complainant**

**Versus**

**Disha Direct Marketing Services**

**.. Respondent**

**Coram : Shri M.V. Kulkarni  
Hon'ble Adjudicating Officer**

**FINAL ORDER**

**02-04-2019**

1. The Complainant who had booked a flat with respondent / builder seeks withdrawal from the project and refund of the amount paid with interest.
2. The complainant has alleged that she booked flat No.204/B6 in CIDA DE VIDA project of respondent at Kaver Taluka Alibag, District Raigad in December, 2012. From December, 2012 to 2013 complainant paid Rs.17,31,729/- to respondent. The complainant visited the site. She was told that she will get possession in December, 2014. However, possession has not been delivered till today. The mobile numbers of the contact persons are now switched off. Pravin Hajare who was the person dealing with matter now refuses to come on

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phone and is every time said to be away or on holiday. The complainant is now fed up of chasing them. She therefore seeks refund of the money paid with interest @ 18% per annum from the date of payment.

3. The matter came up before me on 5-3-2019. Complainant appeared but respondent failed to appear. Matter proceeded ex parte against respondent and arguments for complainant were heard. As I am working at Pune and Mumbai offices in alternative weeks, this matter is being decided now.
4. Following points arise for my determination. I have noted my findings against them for the reasons stated below:

#### POINTS

#### FINDINGS

- |  |                    |
|--|--------------------|
| 1. Has the respondent committed default in handing over possession of the flat to complainant as per agreement without there being circumstances beyond his control? | Yes                |
| 2. Is the complainant entitled to reliefs sought?  | Yes                |
| 3. What order?   | As per final order |

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### REASONS

5. POINT Nos. 1 & 2 :- The complainant has placed on record copy of agreement dated 28-03-2013. The complainant booked flat No.204 in the project CIDA DE VIDA at Village Kaver, Taluka Alibag, District Raigad. The price was agreed at Rs.28,70,000/- Receipt for Rs.5,74,000/- is annexed to the agreement. As per clause-4 possession was to be delivered within 24 months commencing from date of execution of agreement. Therefore, the date for possession comes to March, 2015. The respondent has not disputed that possession is not delivered to complainant till today. Clearly the respondent failed to deliver possession of the flat to complainant as per agreement without there being circumstances beyond his control. I therefore answer point No.1 in the affirmative.
6. First payment of Rs.51,000/- appears to have been made by complainant on 23-12-2012. Further Rs.5,23,000/- appear to have been paid on 5-1-2013. Therefore their receipt for Rs.5,74,000/- is annexed to the agreement. Further on 3-6-2013 receipt for Rs.28,700/- was issued. On the same day receipt for Rs.19,229/- was issued. On the same day receipt for Rs.4,00,000/- was issued. On 12-7-2013 receipt for Rs.5,00,000/- was issued. The total comes to Rs.15,21,929/-. Complainant has claimed that she has

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paid Rs.17,31,629/-. Copy of receipt dated 23-12-2012 is placed on record. The receipt with agreement shows payment of Rs.51,000/-. In this copy word Lac appears to have been subsequently prefixed and likewise figure 1 before 51,000 appears to have been subsequently added. For lack of sufficient space word one lac could not be added and the falsity has become explicit. The cheque numbers are tallying. The receipt dated 7-1-2013 corresponds to figure in the receipt with the agreement. Consequently complainant is entitled to refund of Rs.15,21,929/- with interest as provided under Rule-18 of Maharashtra Rules. If the amount includes stamp duty, complainant will not be entitled to stamp duty amount which can be refunded as per rules. I therefore answer point No.2 in the affirmative and proceed to pass following order.

### ORDER

1. The complainant is allowed to withdraw from the project.
2. The respondent shall pay Rs.15,21,929/- <sup>to complainant</sup> except the stamp duty if included which can be refunded as per rules, together with interest @ 10.70% per annum from the date of payments till final realisation.

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3. The respondent shall pay costs of Rs.20,000/- to the complainant.
4. The complainant to execute cancellation deed at the cost of respondent.
5. The respondent to pay above amounts within 30 days from the date of this order.

Pune  
Date :- 02.04.2019

  
(M.V.Kulkarni )  
Adjudicating Officer,  
MahaRERA