

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO: CC006000000012794

Biyani Financial Services Pvt. Ltd.

... Complainant

Versus

Mindset Estates Private Limited  
MahaRERA Regn. No. P51900009854

... Respondent

Corum:

Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present along with Mr. Abhishek Walwaikar, Adv.  
Respondent was represented by Mr. Bhowmick Vaidya, Adv., (i/b Kanga & Co.).

**Order**

June 4, 2018

1. The Complainant has purchased office spaces on the 17th floor in the Respondent's project 'The Ruby - Ground and 1st Part, 21st to 39th Floor' situated at Dadar, Mumbai via registered agreement for sale dated June 12, 2010. Further, the Complainant has stated that pursuant to discussions between the parties, the Complainant's allotment was shifted to the 25th floor. However, the Respondent has failed to handover possession of the same till date. Therefore, the Complainant prayed that the Respondent be directed to handover possession of the said office space by obtaining the Occupation certificate for the same at the earliest or have the Complainant's allotment shifted back as originally promised on the 17th floor for which the Respondent has obtained the part-occupation certificate and which is presently occupied. Further, he prayed that the Respondent be directed to pay interest, on delay, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*).
2. During the hearing held on April 4, 2018, the learned counsel for the Respondent argued that a fresh agreement for sale dated March 31, 2016 was executed and




registered by the parties for the re-allotment of office premises from 17<sup>th</sup> floor to 25<sup>th</sup> floor. Further, he submitted the said agreement for sale dated March 31, 2016 did not have a date of possession mentioned due to the peculiar nature of the said project. Further, he submitted that the said project is complete, ready for occupation and already occupied by many allottees. However, due to non-receipt of occupancy certificate, the Complainant has not taken possession for the same. Both parties than sought time to amicably settle the matter.

3. On the next date of hearing, the authorised representative of the Complainant stated that the Complainant's allotment should be shifted to any floors between the 14<sup>th</sup> and 16<sup>th</sup> floor as the Respondent has already obtained the part- occupation for the said floors and the said floors are currently occupied. The learned counsel for the Respondent sought time to seek instructions about the same.
4. On the next date of hearing on May 30, 2018, the learned counsel for the Respondent submitted that the Respondent is not in a position to offer the office premises between the 14<sup>th</sup> and the 16<sup>th</sup> floor due to *lis pendens*. Further, he submitted the Respondent has alternatively offered to shift the Complainant in the adjoining wing, which is a larger area than promised and is willing to pay the moving costs for the same. The Complainant, however, did not want to shift to another adjacent building.
5. On review of the Respondent's MahaRERA registration it is observed that the Respondent has put December, 2020 as the revised proposed date of completion which is an unreasonable time period for completion of the project, considering that the construction of the said project is complete. As per the provisions of the Rule 4 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 the revised date of possession for an ongoing project has to be commensurate with the extent of balance development.
6. In view of the above facts, the Respondent is given a period of one month to obtain Occupancy Certificate and therefore, handover the possession the said apartment, with Occupancy Certificate, to the Complainant before the period of June 30, 2018, failing which the respondent shall be liable to pay interest to the Complainant from



July 1, 2018 till the actual date of possession, on the entire amount paid by the Complainant to the Respondent. The said interest shall be at the rate as prescribed under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017.

7. Consequently, the matter is hereby disposed of.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA