

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

COMPLAINT NO: CC006000000023226

Namdeo Aba Ulmek

... Complainant.

Versus

Karrm Infrastructure Private Limited
MahaRERA Regn: P5170003215

... Respondent.

Coram:

Hon'ble Shri Madhav Kulkarni.

Appearance:

Complainant: In person

Respondent: Absent.

Final Order

21st February, 2019

1. The complainant who had booked a flat with respondent / builder initially sought interest on the amount paid and direction to the builder to hand over possession. However, later on before the Hon'ble Chairperson on 06th June 2018 complainant sought to withdraw from the project and sought compensation and interest on the amount paid.
2. The complainant has alleged that he booked flat on 19th Sept. 2011 and paid Rs. 7,40,592/-. He has also paid registration fee Rs. 60,000/-. Possession was promised in Dec. 2014. However, respondent failed to deliver possession. As usual necessary details are missing in the online complaint. From the agreement dated 19.3.2013, what is made out is that complainant booked flat No. 108 on 1st floor in building No. 121-B by name Kranti in sector 4 in the project "Karrm Residency" at Village Dhasai Tal. Shahapur, Dist. Thane. The price agreed was Rs. 7,56,800/-. As per clause 7 date of delivery of possession was Dec. 2014. Since the Developer did not hand over the possession as per agreement, the complainant filed this complaint.

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3. The matter came before the Hon'ble Chairperson on 15th May 2018. Both the parties had agreed to settle the matter amicably. On 06th June 2018, the complainant expressed that he wanted to withdraw from the project. The matter therefore came to be transferred to Adjudicating Officer. On 11th Oct. 2018, complainant appeared before me, but respondent failed to appear. On 11th Oct. 2018 Adv. Sunny Jain along with representative for respondent Mr. Prasad Khopkar appeared before me. Time was granted for filing written explanation by respondent on costs of Rs. 2000/-. On 27th Nov. 2018 the matter came to be adjourned to 21.12.2018 for final hearing as both parties were absent. On 21.12.2018 respondent again failed to appear 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 failed to deliver possession of flat booked by complainant, as per terms of agreement without there being circumstances beyond his control?	Affirmative
2. Is the complainant entitled to the reliefs claimed?	Affirmative
3. What order?	As per final order

Reasons.

Point Nos. 1 & 2

5. The complainant has placed on record agreement executed by respondent which is dated 19.03.2013. In the complaint, complainant alleged that he booked flat on 19th Sept. 2011. Receipt dated 19th Sept. 2011 in respect of cheque for Rs. 1,13,520/- is placed on record. Further cheques appear to have been issued in the

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year 2012 as well as 2013. As per clause 3 of the agreement payment was to be done stage wise. What was the stage on the date of execution of agreement on 19.3.2013 is not made clear. The date of delivery of possession was Dec. 2014. The contention of the complainant that the respondent has failed to deliver possession till today is not challenged by the respondent. Clearly the respondent has failed to deliver possession of the flat booked by complainant as per terms of the agreement. No justification of any kind is coming forth from the respondent. I therefore hold that the respondent failed to deliver possession as per agreement without there being circumstances beyond his control. I therefore answer point No.1 in the affirmative.

6. The complainant has placed on record following receipts for following cheque amounts:

- 1) for Rs. 1,35,520/- dated 19.09.2011
- 2) for Rs. 1,13,520/- dated 07.05.2012
- 3) for Rs. 3,508/-/- dated 07.05.2012
- 4) for Rs. 2,923/- dated 07.05.2012
- 5) for Rs. 1,13,520/- dated 10.01.2013
- 6) for Rs. 1,13,520/- dated 07.03.2013
- 7) for Rs. 75,680/- dated 07.03.2013
- 8) for Rs. 75,680/- dated 07.03.2013
- 9) for Rs. 3,508/- dated 11.06.2013
- 10) for Rs. 27,840/- dated 6.7.2013
- 11) for Rs. 37,840/- dated 6.7.2013
- 12) for Rs. 2339/- dated 18.01.2014
- 13) for Rs. 37,840/- dated 18.01.2014

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- 14) for Rs. 3508/- dated 18.01.2014
- 15) for Rs. 1169/- dated 18.01.2014
- 16) for Rs. 2339/- dated 18.01.2014
- 17) for Rs. 1169/- dated 18.01.2014

The total comes to Rs. 7,51,423/-. The complainant will be entitled to refund of Stamp Duty as per Rules. Except that amount complainant will be entitled to refund of the amount paid to the respondent with interest as per Rule 18 of Maharashtra 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 to repay Rs. 7,51,423/- to the complainant except the Stamp Duty which can be refunded as per Rules together with interest @ Rs. 10.70% p.a. from the date of payments till final realisation.
- 3) The respondent shall pay Rs. 20,000/- to the complainant as costs of the complaint.
- 4) The complainant to execute cancellation deed at the cost of the respondent.
- 5) The respondent to pay above amount within 30 days from the date of this order.

Mumbai.
Date:21.02.2019


(Madhav Kulkarni)
Adjudicating Officer
MahaRERA