

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

Complaint No.CC005000000010510

1) Venkatesh Mangalwedhe .. Complainant

Versus

1. M/s D. S. Kulkarni Developers .. Respondents

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

FINAL ORDER

1. Complainant Venkatesh Mangalwedhe has filed this complaint for refund of money paid by him to builder while booking flat as he wants to withdraw from the Project.
2. This complaint first came up before ^{1st} member MahaRERA Mumbai on 11.12. 2017 Roznama shows that matter was to be settled between Parties. and was adjourned to 5.1.2018 Roznama of 16.2.2018 shows that matter was adjourned to 23.3.2018 for complainant to give payment details as respondent had failed to appear. Later on file came to be transferred to this pune office of Adjudcating officer We two A.O. are working at Pune office in alternate weeks for want of sufficient accommodation . In alternate weeks I am working with Mumbai office . This matter there fore could not be decided till now.

1.6.2018

3. Complainant has alleged that in Jan 2014 he booked flat No. H 304. Resp. builder promised to deliver possession by Dec. 2016 Since possession is not delivered, complainant seeks refund of his money. It must be stated that complaint lacks necessary details as to the name and location of Project, the Price that was agreed and the amount which was paid by him. Thus complaint is filed in casual manner.
4. Respondent though appeared initially, did not file written explanation Respondent has thereafter failed to appear and matter proceeded ex parte against respondent.
5. Following Points arise for ^{the}any determination I have noted my findings against them for the reasons stated below.

POINTS

FINDINGS

- | | | |
|-----|--|---------------------|
| (1) | Has the respondent Committed Default of in delivering Possession Of flat as agreed ! | Yes |
| (2) | Is the complainant entitled for refund of Amount paid ! | Yes |
| (3) | What order ? | As per final order. |

REASONS

6. As stated earlier the complaint lacks the necessary details as to the flat that was booked and price that was agreed and the price that was paid. However from the agreement it can be made out that respondent agreed to sell flat No. H-304 in building DSK Anandghan DSK Vishwa Phase VI Sinhgad road Pune. Date of agreement is 13.1.2014

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As per statement of claim Complainant Paid Rs. 35,21,368.03 to respondent from 13.1.2014 to 21.7.2016 He claims to have paid Rs. 1,50,605 .74 towards service tax , VAT, TDS Certificate. He claims to have paid Rs. 2,93,260/- towards Registration fees and stamp duty. He claims to have spent Rs. 2,25,000 towards Rent paid from 1.1.2017 to March 2018 @ Rs. 15000/- per month. He claims to have spent Rs. 2,94,867 for legal fees, travel expenses etc. He claims to be coming from Delhi for that purpose.

7. The agreement dated 13.1.2014 in favour of complainant is placed on record by him. It shows flat area 64.02 Sq. Mtrs + terrace 8.08 Sq.mtrs + parking Price agreed to be paid is Rs. 5,30,000/- The purchaser was to pay 1% TDS on each instalment to income tax authority as well as VAT, LBT, Service tax Possession was to be delivered before December 2016, Complainant has produced receipts issued by respondent from time to time There is no challenge to the version of complainant from respondent .
8. Since respondent agreed to deliver possession of flat in question before 31 December 2016 and has not delivered possession till today, respondent is liable to refund amount paid by complainant to respondent. No justification at all is coming forth as to why respondent failed to deliver possession as per agreement It appears that business of respondent is in doldrums. No justification is however coming forth from respondent .
9. In view of above discussion complainant is entitled to withdraw from scheme and refund of money paid by him He has paid Rs. 3521368/- to respondent towards instalments . He has paid Rs. 1,50,609/- towards TDS etc, He has paid


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stamp duty of Rs. 2,61,500/- After cancellation of agreement he will be entitled to refund of stamp duty. He will therefore be not entitled to this amount He claims to be staying in Delhi. For what purpose he stays there is not made clear. Again he claims to be paying rent for his accommodation at Pune . The reason for seeking accommodation in pune is nowhere given. He will therefore be not entitled to claim rent amount. He will be entitled to other ~~se~~ expenses Therefore he will be entitled to claim Rs. 3998604/- I therefore pass following order.

ORDER

1. Respondent to pay Rs. 39,98,604/- to complainant along with interest thereon @ 10.05 to P.a. from the date of filing of complaint till final realisation.
2. Respondent to Pay Rs. 20,000/- to complainant as compensation.
3. Respondent to Pay Rs. 5000/- as costs to the complaint.
4. Charge of a foresaid amounts shall be kept on the flat booked by complainant.

Pune
Date :- 1.05.2018


(M.V. Kulkarni)
Adjudicating Officer,
MahaRERA, Pune