

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC00600000056754

Rushikesh Patil ... Complainant

Versus

Shree Construction Company
MahaRERA Regn. No. P51700010575 ... Respondent

Corum:
Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present.
Respondent was represented by Asadullah Shaikh, Adv. (i/b K. K. Associates) a/w Ms. Khushnuma Khan, Adv.

Order
February 20, 2019

1. The Complainant has booked an apartment bearing no 803-C in the Respondent's project 'KAVYA PARK' situated at Thane in 2011. The Complainant stated that he has paid up to 34% of the consideration price but the Respondent has failed to execute and register the agreement for sale and hand over possession of the apartment by December 2014 as promised in 2011. Therefore, he prayed the Respondent be directed to refund the amount paid.
2. The learned Counsel for the Respondent submitted that the project could not be completed for reasons beyond the Respondent's control. Specifically, he submitted that the said project is under ULC exemption and that the required approvals from the ULC Authorities are not forthcoming as there is no local authority in place to issue the same. Further, he submitted that several such projects in the same vicinity are stuck for the same reasons. He also submitted that the Respondent has taken help of the



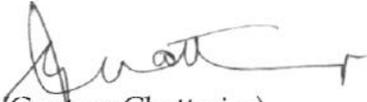
Association of Developers who are taking measures to expedite the process of receiving the required approvals and that the Respondent commits to have the project completed in a timebound manner once the mitigating circumstances are over. He also submitted that the Respondent is in the process of submitting a joint application to the competent authority in coordination with the other allottees of the project for obtaining the required approvals. Further, he submitted the Respondent is willing to execute and register the agreement for sale once the required approvals are obtained.

3. The Complainant prayed the Respondent be directed to reallocate him an apartment which is ready to move-in and that has the requisite permissions.
4. In a previous complaint filed against the said project, MahaRERA had via an Order dated July 25, 2018 directed the Respondent to make serious efforts to expedite the process of obtaining the required approvals for recommencing the project work at the earliest and to complete the construction work of the said project in a time-bound manner, in accordance with the timeline mentioned in the registration webpage.
5. In view of the above facts, as prayed by the Complainant, the Respondent is directed to reallocate an apartment to the Complainant on a floor that has the requisite commencement certificate and have the agreement for sale executed and registered as per the provisions of section 13 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder within 30 days from the date of this Order.
6. Under the provisions of section 7 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*), the promoter is expected to conduct his business in a fair and just manner. As enumerated in para 5 above, since the Respondent has failed to obtain, till date, the requisite commencement certificate for the floor in which the apartment of the Complainant is located, in case the Complainant intends to withdraw from the said project, the Respondent shall refund the principal amount paid by the Complainant and additionally interest on the said amount, with effect from May 1, 2017. 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