

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,  
MUMBAI

Complaint No. CC006000000171708

Mr. Pranav Kelkar

..Complainant

**Versus**

M/s. Sai Pushp Enterprises  
Through Mr. Bhavesh Rasal & Mr. Vikram Shah

..Respondents

MahaRERA Project Registration No. P51700000618

Coram: Dr. Vijay Satbir Singh, Hon'ble Member - 1/MahaRERA

The complainant appeared in person.  
Adv. Sachin Katkar for the respondents.

**ORDER**

( 12<sup>th</sup> November, 2020)  
(Through Video Conferencing)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent promoter to refund the booking amount paid by him to the respondent along with compensation under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of booking of a flat No. 1502 on 15<sup>th</sup> floor, in the respondent's registered project known as "Tokyo Bay Phase-1" bearing MahaRERA registration No. P51700000618 at Thane.
2. This complaint was heard finally on 20.10.2020 as per the Standard Operating Procedure dated 12-06-2020 issued by MahaRERA for hearing of complaints through Video Conferencing. Both the parties have been issued prior intimation of this hearing and they were also informed to submit their respective written submissions, if any. Accordingly, both the parties appeared for the hearing and they have filed their respective written submissions. After hearing the arguments of both the parties, one week's time was granted to the respondent to upload its written



submissions on record of MahaRERA. However, till date the respondent has not uploaded any written submission on record of MahaRERA.

3. It is the case of the complainant that he had booked the said flat in the respondent's project on 11-11-2019 for total consideration amount of Rs. 29,56,678/-. At the time of booking he paid an amount of Rs. 56678/- towards the booking amount. However, after booking of the said flat, his wife lost her job and hence he was not in position to borrow loan. Hence on 23-11-2019 he informed the respondent for cancellation of the said booking and sought refund of the entire booking amount. However, till date the respondent has not refunded the booking amount to him though it has sold the said flat to the other allottee. Hence this complaint has been filed.
4. The respondent on the other hand resisted the claim of the complainant by filing written reply on record of MahaRERA. In the said reply the respondent has stated that the complainant had booked the said flat for total consideration amount of Rs. 29,56,678. At the time of booking, he signed the booking application form. Thereafter on 23-11-2019, he informed the respondent that he wants to cancel the said booking and asked for refund without specifying any reasons. The respondent stated that as per clause No.16 of the booking application form signed by the complainant, since the complainant has cancelled the said booking due to his personal reasons before issuance of allotment letter and within a period 45 days from the date of booking, the booking amount paid by him stands forfeited. Even till date, no registered agreement for sale has been executed with respect to the complainant's flat. The respondent further stated there is no violation of any of the provision of RERA by it and hence the complainant is not entitled to seek any relief from MahaRERA.



5. The MahaRERA has examined the arguments advanced by the complainant parties as well as the records. In the present case, it appears that the complainant is seeking refund of the amount paid by him to the respondent towards the purchased of a flat in the respondent's project. Admittedly there is no allotment letter issued by the respondent nor any agreement for sale has been executed with the complainant.
6. In this regard, the MahaRERA is of the view that as per the provision of section 18 of the RERA , the promoter is liable to refund the amount to the allottee on demand, if the agreed date of possession mentioned in the agreement for sale has lapsed. However in the present case, there no agreement for sale entered into between the parties showing any agreed date of possession. Hence the complainant's case is untenable under section 18 of the RERA. Moreover the allottee is entitled to seek refund of the booking amount in case the promoter violates the provision of section 12 of the RERA. However, in the instance case, the complainant has not contended that the respondent has given any misleading information at the time of booking, whereby the complainant suffered any loss. Hence the claim of the complainant under section 12 of the RERA towards the refund of the booking amount cannot be considered. Further the complainant due to his own personal reasons has cancelled the said booking. The MahaRERA therefore feels that there is no violation of any of the provisions of RERA as stated hereinabove by the respondent. Hence, in absence of any allotment letter / agreement for sale, the parties are governed under the provisions of the booking application form signed by both the parties.
7. With the above observations, the complaint stands dismissed for want of merits.



(Dr. Vijay Satbir Singh)  
Member - 1/MahaRERA