### BEFORE THE

# MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY MUMBAI

## COMPLAINT NO: CC006000000078579

Manama Impex Pvt Ltd	 Complainant
Versus	
Real Gem Buildtech Private Limited	 Respondent
MahaRERA Regn. No: P51900006367	

**Coram**: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented by Mr. Manoj Agarwal, Adv. Respondent was represented by Mr. Abir Patel, Adv. i/b Wadia Ghandy & Co. along with Ms. Jainey Gangal, Adv authorised representative of Respondent and Ms Gayatri Tikale, Adv.

### Order

# November 2, 2020

- 1. The Complainant has stated that they are an allottee of apartment No 1601 in the Respondent's project, then advertised as DB Crown. They have further stated that they booked the apartment and paid sums towards purchase consideration in the year 2013, upon the express statement of the Respondent's representative that the apartment would be ready for possession by end 2017. The revised completion date of the project as per MahaRERA registration is December 2022. Therefore, they have prayed for relief under Section 12 to withdraw from the project and have sought refund of their amounts paid, with interest.
- 2. On the first date of hearing on April 10, 2019, the parties sought time to try to settle the matter amicably. During the next hearing held in March 12, 2020, since the parties did not arrive at any settlement, the Respondent was asked to file his written submission. The Respondent has uploaded his affidavit in reply on September 3, 2020.

- 3. Final hearing was held through video conference as per MahaRERA Circular no: 27/2020 on October 1, 2020. Learned Counsel for Complainant sought time for filing rejoinder, which was allowed to the parties and the matter was reserved for order on November 02, 2020.
- 4. The Respondent, in his affidavit, while denying all the allegations and contentions made in the complaint and seeking dismissal of the complaint with costs, has stated the following:
  - a) The Complainant has made a misrepresentation regarding the date of possession. Even the email dated April 13, 2017 referred to by the Complainant, mentions a probable completion date of June 2020.
  - b) There is no violation of Section 12 as amounts taken from the Complainant are not on the basis of any notice, advertisement or prospectus which have caused any loss to the allottee.
  - c) The Complainant, a private limited company, have themselves admitted in their submission that they are seeking an exit from the project due to personal reasons because they themselves are unable to provide necessary security for availing loan.
  - d) The increase in the carpet area of the apartment is in accordance with Clause 6.4 of the allotment letter which allows variation of up to 15% in the dimension of the apartment.
  - e) If the Complainant chooses to terminate the booking, the same should be guided by Clause 8.1 of the booking application form.
- 5. The Complainant in their rejoinder uploaded on October 13, 2020 have reiterated that there is violation of Section 12 and stated that the increase in carpet area is more than 15% but the Respondent has capped the revised consideration so that the increase does not exceed 15% over the amount acknowledged as the sales consideration at the time of allotment.
- 6. In view of the above, the contention of the Complainant that there is violation of Section 12 of the Real Estate (Regulation and Development) Act, 2016 is not accepted. Therefore, if the Complainant wishes to withdraw from the project, it would be as per the terms and conditions of the booking application form and not in accordance with Section 12 of the Act.
- 7. Consequently, the matter is hereby disposed of.

Gautam Chatterjee Chatterjee Chatterjee Date: 2020.11.02 14:14:42 +05'30' (Gautam Chatterjee)

Chairperson, MahaRERA