

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

Complaint No. CC00600000057081

Mrs. Mita Ashwin Jhaveri
Mrs. Payal Rushabh Jhaveri

.... Complainants

Versus

M/s. Shreeniwas Cotton Mills
M/s. Lodha Developers Pvt Ltd
Project Registration No. P51900008962

.... Respondents

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

Adv. Walwaikar present for the complainant.

Adv. Mahendra Singh appeared for the respondent.

ORDER

(13th December, 2019)

1. The complainants have filed this complaint seeking directions from MahaRERA to the respondents to refund the entire amount paid by them along with interest and compensation for the delayed possession under Section-18 of the Real Estate (Regulation & Construction) Act, 2016 (hereinafter referred to as "RERA") in respect of booking of a flat in the respondents' project known as "World One Tower" bearing MahaRERA registration No. P51900008962 situated at Lower Parel, Mumbai.
2. This complaint was heard on several occasions and the same was heard finally on 03.12.2019. During the hearings, the parties have sought time to file their written submissions. For compliance of principles of natural justice, adequate time was granted to both the parties to submit their written submissions in respect of their claims. However, during the hearing, the respondents raised preliminary objection regarding maintainability of this complaint and the jurisdiction of MahaRERA to entertain this complaint. The complainants were directed to file reply on the said application filed by the respondents.



3. It is the case of the complainants that they have booked the said flat for a total consideration amount of Rs.16,33,44,942/-. The allotment letter was issued on 25.03.2014. Thereafter, the respondents have executed registered agreement for the sale of the said flat on 29.04.2014. According to the said agreement, the respondents were liable to handover the possession of the said flat to the complainants on 31.12.2015. However, the respondents failed to hand over the possession of the said flat to the complainants so far and hence, the complainants have filed this complaint seeking directions from MahaRERA to the respondents to refund the entire amount along with interest and compensation.
4. The respondents, on the other hand, resisted the claim of the complainants on the preliminary issue of maintainability of the complaint on the issue of jurisdiction. The respondents had filed the written submission on record dated 26.02.2019 and have stated that the complainants are not allottees of this project registered with MahaRERA and hence, the complaint filed by the complainants is not maintainable in this project. Therefore, the complaint filed by the complainant is liable to be dismissed. The respondents further stated that the part occupancy certificate for the complainants' flat is obtained on 29.07.2017 and therefore, the said component is not registered with MahaRERA by the respondents. Since the part occupancy certificate was obtained during the 3 months period granted by MahaRERA for registration of the project, the respondents prayed for dismissal of this complaint.
5. The complainants disputed the application filed by the respondent on jurisdiction issue and stated that irrespective of the fact, part occupancy certificate is obtained for this project, the amenities agreed by the respondents in the agreement for sale were incomplete. Hence, the complainants prayed that the application filed by the respondents may kindly be dismissed. However, during the hearing, the complainants sought

withdrawal of the complaint with liberty to file a complaint In Source Information for non-registration of the said project.

6. The MahaRERA has examined the submissions of both the parties as well as the facts on record. Prima-facie, it appears that the complainants have booked the said flat on 39th floor, bearing flat No.3901 in the project undertaken by the respondents known as **“World One Tower”**. However, on perusal of the Webpage of MahaRERA, it appears that the respondents have registered about 80 flats in this project, which shows that the 39th floor wherein the complainants flat is situated is not a part of this project and hence, MahaRERA feels that this complaint is not maintainable in this project.
7. However, since the complainants have sought liberty to withdraw this complaint and requested to file a fresh complaint In Source Information, the MahaRERA accepts the request of the complainants and dispose of this complaint as well as application filed by the respondents for preliminary issue of jurisdiction with liberty to the complainant to file appropriate proceedings.



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