

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000001389

Gaurav Makkar

... Complainant.

Versus

Shining Sun Constructions
(Marble Arch)

... Respondents.

MahaRERA Regn: P52000013234.

Coram: Shri B.D. Kapadnis, Hon'ble Member,
MahaRERA, Mumbai.

Appearance.

Complainant: through Susheel Makkar

Respondent: Absent.

**Order on the application filed by the complainant for executing the order
passed in CC006000000001389.**

31st May 2018.

The complaint has been decided on 23rd March 2018. The respondents have been directed to execute the agreement for sale in complainant's favour of flat no. 702, Marble Arch situated at Plot no. 104, Sector-14, Panchnand, Taloja, Navi Mumbai by end of March 2018 and also to pay her Rs. 20,000/- towards the cost of complaint. Penalty of Rs. 50,000/ is also imposed u/s 61 of RERA.

2/- The complainant complains that the respondents have not complied with the order. Hence she requests to execute/enforce the same.

3/- Section 40(2) provides that if any Adjudicating Officer or the Regulatory Authority or the Appellate Tribunal issues any order or directs any person to do any act or refrain from any act, which it is empowered to do under RERA or the Rules and Regulations made thereunder, then in case of failure of any person to comply with such orders or directions, the same shall be enforced in such manner as may be prescribed.



4/- Rule 4 of The Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of Complaints and Appeal Etc.) Rules, 2017 provides that every order passed by the Adjudicating Officer or the Authority under the Act or the Rules and Regulations made thereunder shall be enforced by the Adjudicating Officer or the Authority in the same manner as if it were a decree or the order made by the Principle Civil Court of original jurisdiction in a Suit. Therefore, this Authority has jurisdiction to enforce the order passed in the complainant's case.

5/- Section 40(1) r/w Rule 3 of The Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of Complaints and Appeal Etc.) Rules, 2017 empower the Authority to recover the penalty and the cost imposed upon the respondents as the arrears of land revenue under MLRC. It is reported by the Finance Controller of the Authority that the respondents have not deposited Rs. 50,000/- imposed as penalty under Section 61 of RERA. They have not paid the cost of complainant to complainant also. Hence, it is necessary to issue warrant to the District Collector, Raigad for recovery of those amounts.

6/- So far as the execution of the agreement for sale is concerned the provisions of order XXI, Rule 34 of Code of Civil Procedure will have to be followed. Therefore, I proceed to pass the following order.


ORDER

1. The complainant shall serve a draft of proposed agreement for sale on the respondents before 19.06.2018.
2. If the respondents want modification/changes in the draft, they shall appear before the Authority on the said date.
3. After hearing the parties necessary directions for changing/modifying the draft, if required shall be given.
4. Thereafter the complainant shall transcribe the draft on the requisite stamp paper and respondents shall execute and register it on the date specified by the Authority.
5. In case of respondents' failure to execute and register the agreement, the Secretary of MahaRERA shall execute and register the agreement on behalf of the respondents at the cost of complainant.
6. The agreement for sale executed by the Secretary of MahaRERA will be deemed to be the agreement executed by the respondents themselves and shall be binding on them.



7. Issue recovery warrant against the respondents for recovering the amount of penalty of Rs. 50,000/-. The Secretary of MahaRERA shall pursue the matter and if necessary may seek appropriate directions including the measure to freeze the respondents' accounts.
8. Issue recovery warrant for recovering Rs. 20,000/-, the cost of the complaint against the respondents directing the Collector Raigad, to pay the same to the complainant on its recovery.

Mumbai.
Date: 31.05.2018.


31.5.18

(B.D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.

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

COMPLAINT NO: CC0060000000001389

Gaurav Makkar

... Complainant.

Versus

Shining Sun Constructions.
(Marble Arch)

... Respondents.

MahaRERA Regn: **P52000013234**

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Appearance:

Complainant: In person.

Respondents: Absent.

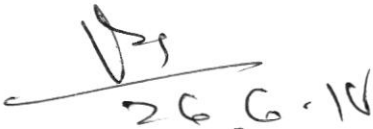
ORDER ON RECOVERY APPLICATION.

26th June 2018.

Heard the Power of Attorney Holder of the complainant and the learned advocate of the respondents. The complainant's Power of Attorney Holder submits that the respondents have complied with the order. Hence, the proceeding is terminated as the complainant's claim is fully satisfied.

Mumbai.

Date: 26.06.2018.


(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.