

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

**Complaint No. CC00600000057526**

Merit Magnum Construction

..... Complainant

**Versus**

Regency Nirman Ltd

..... Respondent

Project Registration No. P51700017874

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

Adv. Sushant Chavan appeared for the complainant.

Adv. Ashok Advani for the respondent.

**ORDER**

(3<sup>rd</sup> October, 2019)

1. The complainant has filed this complaint seeking directions from MahaRERA to cancel the MahaRERA project Registration No. P51700017874 issued in favour of the respondent on the ground of non-compliance of the mandatory provisions under Sections-4(2)(I), (A), (B) and (C) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the RERA").
2. The matter was heard on several occasions and the same was heard finally on 20<sup>th</sup> August, 2019. During the hearings, both the parties have appeared through their respective advocates and made oral as well as written submissions on record of MahaRERA.
3. It is a case of the complainant that they have filed a suit before Civil Court, Kalyan for specific performance of the agreement dated 16<sup>th</sup> September, 2005 for cancellation of the agreement executed between the land owners and the respondent against the land owners, whose land the complainant intended to purchase including the project land. The said suit bearing No. 467 of 2009 is still pending before the Civil Judge, Senior Division Kalyan. However, the respondent filed an affidavit while registering the

*Ashok*

project with MahaRERA wherein the survey No. given in said affidavit are same, still the respondent has not mentioned about the pending litigation on MahaRERA website as required under Section-4(2) of the RERA. The complainant further argued that, the respondent has no legal title with legally valid documents, the land in the said project is owned by the different owners against whom, the said suit was filed wherein the respondent also joint as party defendant and hence, the litigation is required to be disclosed on MahaRERA website in litigation detail column since the RERA is very clear about the disclosure of the information.


4. The respondent disputed the claim of the complainant and argued that, the present complaint is not maintainable and liable to be dismissed as the complainant is not the aggrieved person/ party as per the provisions of Section - 31 of the RERA and hence cannot file this complaint before the MahaRERA under Section-31. The respondent further argued that, they are not liable to disclose the said litigation pending before the Civil Court, Kalyan, as there is no encumbrances on the project land. The respondent further submitted that, the project land is not the subject matter of the civil suit No. 467 of 2009 and the order of the Hon'ble Supreme Court of India clearly talks about the "suit land". The complainant has no right with respect to project land as the complainant has proposed to purchase the said suit land from the land owner. Further, suit land was described in Exhibit A and C of the said plaint, which shows that, the properties mentioned in the MahaRERA are different from the property mentioned at Exhibit A and C. Therefore, the respondent is not bound to disclose the said pending litigation. The respondent further argued that, Exhibit C /E is not a part of the suit property as alleged by the complainant, since the plaint has to be read along with its exhibits. Hence the respondent requested for dismissal of the complaint.

*Issui*



5. The MahaRERA has examined the arguments advanced by both the parties as well as the records. In the present case, the complainant, who is claiming to be proposed owner has filed this complaint seeking cancellation of the MahaRERA project registration on the ground of non-disclosure of the information about the pending litigation bearing No. 467 of 2009 before the Civil Court, Kalyan on the MahaRERA website by the respondent. On perusal of copy of the plaint along with Exhibit A and C, it shows that, the property described in the said exhibit do not tally with the property mentioned at exhibit A and C annexed with the plaint. Hence the MahaRERA feels that, pending litigation do not pertain to the suit property as same is filed pertaining to the adjacent land proposed to be purchased by the complainant. The provision of the Section 4 (2) (i) (a) of the RERA and read with rule-20 of Maharashtra Real Estate (Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017, it is the duty of the promoter to declare with the supportive affidavit duly signed by the promoter or any authorized person stating that, he has a legal title certificate on which the project is under taken and the land is free from all encumbrances or as the case may be and timely completion of the said project and the litigation pending in the said project. In the present case, the complainant has failed to any cogent documentary evidence i.e. order passed by any competent court of law on record of MahaRERA, to show that, the project property is a part of any litigation. Hence the prayer of the complainant to cancel the registration cannot be accepted at this stage.

6. With the above directions, the complaint stands disposed of.

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