

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

COMPLAINT NO: CC00600000055839.

Deepa Kulkarni

... Complainant.

Versus

Horizon Projects Pvt. Ltd.
(My City Phase - 1)

... Respondents.

MahaRERA Regn: P51700005477.

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

Appearance:

Complainants: Adv.R.M. Deshmukh.

Respondents: Adv. Abir Patel a/w Nitin

Desai i/b Wadia Gandy & Co.

FINAL ORDER

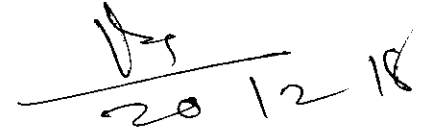
20th December 2018.

Both the parties have settled their dispute amicably by filing the consent terms marked Exh. 'A' which according to them are not to be uploaded.

2. The complaint is disposed off as settled.

Mumbai.

Date: 20.12.2018.



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

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

COMPLAINT NO: CC00600000055839

Deepa Kulkarni ... Complainant.

Versus

Horizon Projects Pvt Ltd ... Respondents.
(MY CITY - PHASE I - PART III)

MahaRERA Regn: P51700005477.

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

Appearance:

Complainant: In person.

Respondents: Adv.Jadhav.

Order on execution application.

18th October 2019.

The complainant filed the complaint against the respondents wherein they have filed consent terms after settling their dispute amicably. As per the consent terms, the respondents agreed to execute the agreement for sale in respect of flat no. 2003¹³ in A-1 Tower of the respondents' My City-Phase-I-Part III project within 10 days of the consent terms. The agreed consideration of the said flat is Rs. 38,20,274/- inclusive of stamp duty and registration charges and other charges are to be borne by the complainant. The respondents agreed to hand over the possession of the flat by 30th June 2019. The parties agreed that Rs. 13,75,385/- paid by the complainant for flat no. 1102 in Tower-1 of Eirene project situated at Balkum, Thane to the respondents' sister concern M/s. Dhruva Woollen Mills Pvt. Ltd. would be adjusted against the



consideration of the new one and the remaining amount of Rs. 19,15,354/- would be payable as per the stages of construction. It is also agreed by the complainant that the GST shall be paid by her. The parties have agreed that in the event of non-compliance, the parties will be able to move the Authority.

2. The parties have agreed that in the event of non-compliance, the parties will be able to move the Authority. Hence this Authority has jurisdiction to entertain this application.

3. After taking into consideration the aforesaid terms and conditions of the consent terms, I find that the complainant agreed to pay the GST Rs. 2,49,590/-.

4. There is dispute between the parties about complainant's liability to pay the GST. The complainant submits that the respondents have received completion certificate on 14.02.2019 of Tower 1. As per the Central GST Act, GST is levyable when there is transaction of sale and it is to be confirmed from the booking form signed by the buyers, assignment of allotment letter, demand notice or execution and registration of the agreement for sale. The complainant submits that none of these documents have been executed before 14.02.2019 and therefore, there is no effective sale transaction of flat no. 203¹¹². No invoice for the sale of flat was raised on or before 14.02.2019. Hence, she denies the liability to pay Rs. 2,49,590/- claimed by the respondents towards the GST.

5. I have heard the parties.


6. As I have mentioned above, the booking of earlier flat no. 1102 is transferred to booking of flat no. 203 on 20.12.2018 when the consent terms have been filed. The complainant is entitled to get flat no. 203¹¹² by virtue of this consent terms on compliance of the conditions mentioned therein. Therefore, this date of consent terms namely 20.12.2018 is material which creates/ vests right in complainant for getting the flat no.



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2003 Rs. 13,75,385/- paid by the complainant for flat no. 1102 in Tower-1 of Eirene project situated at Balkum, Thane to the respondents' sister concern M/s. Dhruva Woollen Mills Pvt. Ltd. has to be adjusted against the consideration of the new one. So this amount is the receipt for the respondents which is susceptible to GST and the remaining amount of Rs. 19,15,354/- is to be paid as per the stages of construction. Once the transaction is entered into before receiving of the occupancy/completion certificate, the payment of the balance money thereafter is not exempted from GST. GST Act exempts the sale of the property after receiving of the occupancy/completion certificate that too, on full consideration. Hence, I find that as the transaction of sale has taken place before the completion certificate is received, the complainant is liable to pay GST as agreed.

7. In the facts and circumstances of the case, the parties are directed to discharge their obligations and act upon the consent terms at the earliest to avoid further complications.

Mumbai.
Date: 18.10.2019.


18 10 19.
(B. D. Kapadnis)
Member II, MahaRERA,
Mumbai.