

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

COMPLAINT No: CC006000000012452

Mr. Anil P.Vijapure and Neeta Anil Vijapure

..... Complainants

Versus

M/s. Horizon Projects Pvt. Ltd.

MahaRERA Registration No. P51700000528

..... Respondent

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

The complainants appeared in person.

Advocate Vijay Rode appeared for the respondent.

**Order**

(12<sup>th</sup> February, 2018)

1. The complainants are the allottees of the flats bearing Nos. C4-1303 & C4-1304 in the respondent's project known as "My City - Phase I" at Dombivli, Dist. Thane bearing MahaRERA registration No. P51700000528. They have paid 5% of the total consideration amount, stamp duty and registration charges for execution of registered agreement for sale. The respondent has sent them draft agreement for sale to be executed between them. However, the complainant has pointed out some deviations in the agreement when compared with the model agreement prescribed under the RERA Rules. In particular, clause No. 27 of the said agreement drafted by the respondent proposes arbitrator to resolve the disputes thereby excluding the authority of RERA. The complainants, therefore, requested the respondent to revise clause No. 27 in the agreement, which was not accepted by the latter. Hence, this complaint has been filed.

*Q. S. R.*

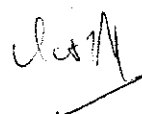
2. The respondent relied upon Rule 10 of the MahaRERA (Registration of Real Estate project, Registration of Real Estate Agent, Rates of Interest and Disclosure on Website) Rules 2017, which provides that nothing prevent the promoter to modify the model form of agreement for sale at Annexure-A, provided that such agreement is in conformity with the provisions of sub-section 13 (2) of the RERA Act, 2016 and therefore, there is no violation of Section 13 (2) of the RERA Act, and Rule 10 of the MahaRERA (Registration of Real Estate project, Registration of Real Estate Agent, Rates of Interest and Disclosure on Website) Rules 2017. Therefore, the respondent prayed for dismissal of this complaint.

3. In view of the rival submissions made by both the parties, this Authority has perused the clause No. 27 of the draft agreement for sale drafted by the respondent, which reads as under;

**27. "All or any dispute that may arise with respect to the terms and conditions of the agreement including the interpretation and validity of the provision hereof and the respective rights and obligation of the parties shall be first settled through mutual discussion and amicable settlement, failing which the same shall be settled through arbitration. The arbitration proceedings shall be under the Arbitration and Conciliation Act, 1996 and any statutory amendment / modification thereto by a sole arbitrator who shall be mutually appointed by the parties or if unable to be mutually appointed then to be appointed by the Court. The decision of the Arbitrator shall be final and binding on the parties".**

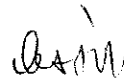
4. The complainants have pointed out that the above amendment and some other changes by the respondent in the model form of agreement will restrict the role of RERA in dispute resolution. Therefore, the complainants have suggested following paragraph in clause-27.

**"All or any disputes that may arise with respect to the terms and conditions of this Agreement, including the interpretation and validity of the provisions hereof and the respective rights and obligations of the parties shall be first settled through mutual discussion and amicable settlement, failing which the same shall be**



**referred to RERA Authorities for their resolution. Further, irrespective of anything said elsewhere in the agreement, any part of this agreement which is not compliant with any of the acts with respect to the real estate, including RERA/MOFA etc., subsequent rules/regulations; shall not be binding on the Purchasers."**

5. The Authority feels that the deviation made by the respondent certainly make the agreement more favorable to him vis-à-vis the home buyers. The latter will find it difficult to seek justice if there is a default on the part of the promoter.
6. There is nothing objectionable in the revised paragraphs under clause 27 of the draft agreement as suggested by the complainants and reproduced above. This will certainly help the homebuyer to safe guard his interests in purchasing the property. This will further reassure that the agreement complies with the provisions of RERA Act & Rules thereunder.
7. In view of the above facts and findings, the respondent is directed to execute the agreement for sale by incorporating clause 27 as suggested by the complainants.
8. With the above directions, the complaint stands disposed of.



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