

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

COMPLAINT No: CC006000000100267

Mrs. Kamala B. Jain & 3 Ors Complainants

Versus

M/s. Tapir Constructions Ltd. and M/s. India Bulls Respondents

MahaRERA Registration No. **P51700000958**

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

Adv. B.S. Chaurasiya appeared for the complainants.

Adv. Abir Patel appeared for the respondent.

ORDER

(2nd January, 2020)

1. The complainants have filed this complaint seeking directions to the respondent to refund the amount paid by them with interest due to delayed possession as per the provision of section-18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "RERA") in respect of booking of a flat in the respondent's project known as "**One Indiabulls Thane-I**" bearing MahaRERA registration No. P51700000958 at Thane.
2. This complaint was heard on several occasions and the same was heard finally on 24-10-2019, when both the parties appeared through their respective advocates. After hearing the arguments of both the parties, the matter was closed of order.
3. It is the case of the complainants that they had booked the said flats in the year 2016. At the time of booking, the total cost of the said flats was not disclosed by the respondent No. 1. However, they have paid an amount of Rs. 60,59,396/-. The said booking was done on 23-10-2016. Since then, the agreement for sale have not been executed with them. Further, at the time of said booking the respondent No. 1 had agreed to handover possession of

Cherry

the said flats by 31-12-2021. However, while registering this project with MahaRERA they have shown the date of completion of the said project as 31-12-2023. They are ready and willing to execute the registered agreements for sale with the respondent No. 1 with date of possession 31-12-2021. The respondent No. 1 sent the copy of draft agreement for sale to them on 20-12-2018 with date of possession as August, 2024 with grace period of 9 months. The respondent No. 1 is not executing the agreements for sale with them by mentioning the date of possession as 31-12-2021. Hence, they want to cancel the booking and seeking refund with interest as per the provision of section-18 of the RERA.

4. The respondent No. 1 promoter has filed reply on record and resisted the claim of the complainants. It also stated that vide letter dated 9-08-2019, it had already intimated to the complainants the intention to terminate the booking forms dated 13-2-2017. The complainants had provisionally reserved 4 flats bearing Nos. 1001,1002,1003, and 1004. As per the said booking application, the complainants agreed to sign the agreements for sale. Accordingly, they were called for execution of agreements for sale by sending various letters. However, the complainants did not come forward for the same. But, without prejudice to the said termination notice, the respondent still showed their willingness to execute the registered agreements for sale with the complainants with the date of possession as 31-08-2023. The respondent No. 1 further stated that the complainants have not produced any documentary proof to show that the agreed date of possession was 31-12-2021 and the complainants themselves have violated the provisions of section-13 and 19(6) of the RERA and section 4 of the MoFA by breaching the terms and conditions of the application forms. The respondent No. 1, therefore, prayed for dismissal of this complaint.
5. The MahaRERA has examined the arguments advanced by both the parties as well as the records. In the present case, it appears that, the complainants

are seeking refund of the amount paid by them to the respondent No. 1 promoter towards the purchase of 4 flats booked in the respondent's project. There are no allotment letters issued for the said booking or the registered agreements for sale have been executed between the parties showing any agreed date of possession for handing over possession of the said flats to the complainants. The complainants have just signed the booking application form and paid booking amount.

6. In this regard the MahaRERA is of the view that as per the provision of section-18(1) of the RERA, the promoter is liable to refund the amount to the allottee on demand, if the agreed date of possession mentioned in the agreement for sale is lapsed. However, in the present case, there is no allotment letters issued in favour of the complainants nor agreements for sale have been entered into between the complainants and the respondent. Therefore the provisions of section 18 of the RERA is not applicable in this case. Moreover there is no provision under RERA to grant refund of the booking amount. However, since the money has been paid to the respondent, the MahaRERA can only grant relief under section 13 of the RERA.
7. In view of the aforesaid facts, the MahaRERA directs the respondent to execute the agreements for sale with the complainants within a period of 2 months from the date of receipt of this order. Failing which the money paid by the complainants be refunded within a period of next 2 months without any interest.
8. With the above directions, the complaint stands disposed of.


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