

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
MUMBAI

Complaint No. CC006000000192809

Mr. Shankarrao Borkar

.... Complainant

Versus

M/s. Sunteck Realty Limited
M/s. DDPL Global Infrastructure
M/s. Unicorn India Projects Estate Pvt Ltd.
Respondents
Project Registration No. P99000017606

....

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

None appeared for the complainant.

Adv. Bhoumick Vaidya appeared for the respondent No. 1.

Adv. Pooja Kane appeared for respondent no.2 and 3.

ORDER

(11th February, 2021)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondents to handover vacant physical possession of his 150 Acres of land and also to pay compensation for the mental stress under the provisions of Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the RERA) in respect of the MahaRERA registered project of the respondent No. 1 known as "Sunteck World 1" bearing MahaRERA registration No. P99000017606 at Tivri, Naigaon (West) at Vasai, Dist-Palghar.
1. This complaint was heard on 08.12.2020 as per the Standard Operating Procedure dated 12th June 2020 issued by MahaRERA for hearing of complaints through Video Conferencing. Both the parties have been issued prior intimation of the hearing and they were also informed to file their written submissions, if any. Accordingly, both the parties appeared through their respective advocates and made their submissions. The respondent No. 1 filed its reply on record of MahaRERA on 8-12-2020. However, during the course of the said hearing, on request of the

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respondent No 2 and 3 , two weeks time was granted to file the reply on record of MahaRERA and the complainant was also allowed to file his rejoinder if any in the subsequent one week. With the said directions, the matter was adjourned to further date.

2. Pursuant to the said direction the respondent Nos. 2 and 3 have filed their reply on record of MahaRERA on 20-01-2021. However, the complainant did not file any rejoinder as per the direction of MahaRERA. Thereafter this complaint was again scheduled for hearing on 28-01-2021 and same is heard finally on 3-02-2021. During the course of the said hearing dated 3-02-2021, though the notice for the said hearing was duly served upon the complainant, neither the complainant nor his advocate appeared for the said hearing. Hence the MahaRERA heard the arguments of the respondents and in compliance of principles of natural justice, one week time was granted to the complainant for file his rejoinder on record of MahaRERA and the case was closed for order. However, the complainant till date has not filed any rejoinder on record of MahaRERA. Hence, the MahaRERA has no other alternative but to proceed with matter based on the available record.

2. On perusal of the copy of complaint, it is alleged that the land under this project had been purchased fraudulently on the basis of notarised power of attorney by same party viz Mr. Hemant A. Patil & DDPL Global Infrastructure Pvt. Ltd without annexing any ID Proof such as Pan Card, Aadhaar Card etc. It shows that the said land transaction documents are bogus / benami Property. The complainant has filed various complaints before the Government and Semi-Governments departments such as Collector office Palghar, Tahsildar office Vasai, Sub - Registrar Vasai - 2 & Vasai - 3, EOW Thane, Police Commissioner Thane City raising an objections and the enquiry is under process. The complainant has also published paper notice showing the title in the said land in the local newspapers on 27/07/2018 & on 27/2/2018 and also filed complaint before the NCLT bearing matter no. CP22/2016 and same is pending and

even filed written complainants to MahaRERA and various departments of State Government. Further, the complainant is also seeking details of sold and unsold inventory with carpet area, proposed FSI etc in respect of the project registered by the respondent bearing No. P99000017606 , P99000017627 and P99000024080. Further various irregularities have been done by the respondent while implementing the said project under Rental Housing Scheme and thereby cheated the authorities i.e. CIDCO, MMRDA & Vasai Virar City Municipal Corporation. Further the respondent has obtained registration certificate in its name. However, the mandatory affidavit has been submitted by Mr. Hemant A. Patil Director of DDPL Global Infrastructure Pvt. Ltd. which is wrong. Hence, the complainant has filed this complaint seeking reliefs as prayed for in this complaint.

3. The respondent No. 1 promoter who has registered this project with MahaRERA has filed its reply on record of MahaRERA and refuted the claim of the complainant. It has mainly stated that the present complaint filed by the complainant be dismissed as the MahaRERA has no jurisdiction to decide the title disputes raised by the complainant and even there is no violation of any provision of RERA by it as alleged by the complainant. It has further stated that the complainant is not an allottee as defined under RERA and he has approached MahaRERA with unclean hands. Further , on 12-04-2018, 29-12-2018 and 19-06-2019 the public notices have been published in the local news papers with respect to the project lands and the complainant failed to raised any objections regarding title of the land in response to the same. Thereafter, it has commenced the construction in the said projects and completed it and sold about 2000 units in these projects. Now at this belated stage the complainant is raising the title dispute just to create hurdles in the project, which is not maintainable. Hence, it has prayed for dismissal of this complaint.
4. The respondent Nos. 2 and 3 who are the owners of the project land and have also filed their reply on record of MahaRERA and resisted the claim

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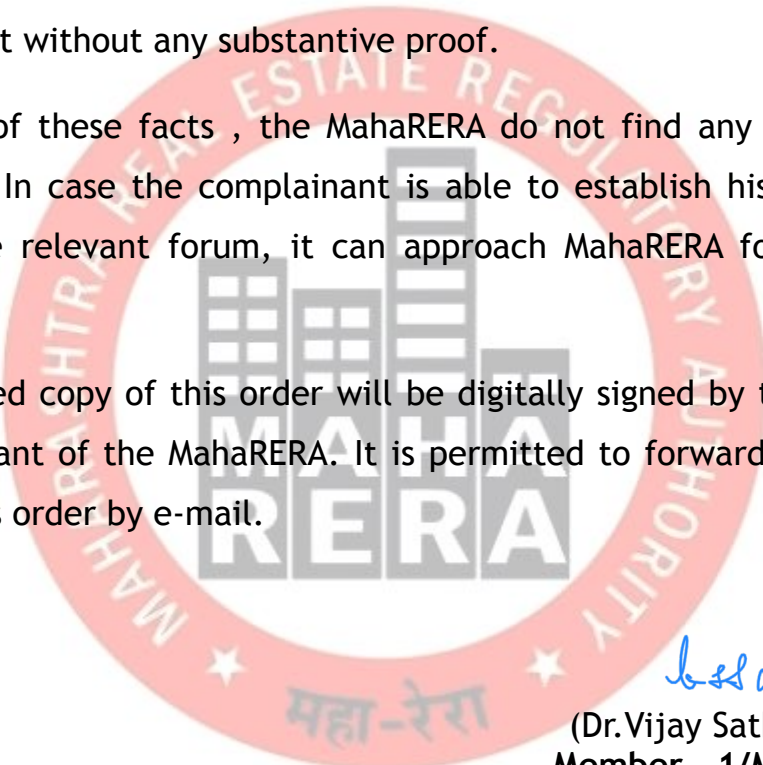
of the complainant by raising various defences. They have stated that the issue raised by the complainant regarding title of the land doesn't fall within the jurisdiction of the RERA. Further the complainant is mainly seeking reliefs towards adjudication of title of the land under the projects registered with MahaRERA under Nos. P990000017606, P99000017627, P99000024072 and P99000024080 and the dispute pertaining to title does not fall within the jurisdiction of MahaRERA. Further the complainant has no locus standi to approach MahaRERA as he is neither allottee nor promoter or real estate agent and hence he has no claim in these projects. Further, the complainant has raised allegations of fraud, forgery and falsification of documents, which are false and baseless and devoid of merits and even such disputes do not fall within the purview of MahaRERA and the jurisdiction lies with appropriate civil and criminal court of law. In addition to this the respondents have further stated that the complainant has not produced any document on record of MahaRERA to show that the permissions granted by the competent authority is based on frivolous documents. Hence they prayed for dismissal of this complaint.


5. The MahaRERA has examined the arguments advanced by both the parties and also perused the record. In the present case by filing this complaint the complainant is seeking possession of the land under the projects undertaken by the respondents which are registered with MahaRERA. The record shows that the respondent No. 1 is the promoter who has registered the projects with MahaRERA and the respondents No. 2 and 3 are the owners of the project lands and are also joined as co-promoters having revenue sharing in the projects.
6. On plain readings of the complaint, prima facie it appears that the complainant is seeking vacant possession of 150 acres of land under the projects registered with MahaRERA. However, the complainant has failed to sufficiently prove under which provision of RERA such reliefs as claimed by the complainant could be considered by the MahaRERA.

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Moreover, the complainant is raising dispute pertaining to the title of the land , in this regard the MahaRERA is of the view that such titled disputes can not be entertained by the MahaRERA for want of jurisdiction as the same lies with the appropriate civil court of law. Hence, the reliefs as claimed by the complainant can not be considered by the MahaRERA.

7. In addition to this , the MahaRERA has also noticed that the complainant has not produced any cogent documentary proof of record of MahaRERA establishing his title pertaining to the project lands and hence the MahaRERA cannot rely upon the mere submissions made by the complainant without any substantive proof.
8. In view of these facts , the MahaRERA do not find any merits in this complaint. In case the complainant is able to establish his claim to the title in the relevant forum, it can approach MahaRERA for appropriate action.
9. The certified copy of this order will be digitally signed by the concerned legal assistant of the MahaRERA. It is permitted to forward the parties a copy of this order by e-mail.

The logo of MahaRERA is a circular emblem with a red border. Inside the border, the text "MAHARAJASTHAN REAL ESTATE REGULATORY AUTHORITY" is written in a circular path. In the center, there are stylized buildings and the word "MAHARERA" in large, bold, grey letters. Below the buildings, the Hindi text "महा-रेरा" is written. Two stars are positioned on either side of the Hindi text.


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