

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

COMPLAINT NO: CC006000000171900.

Prashant Choudhary.

... Complainant.

Versus

M/s. Godrej Properties.

...Respondents.

MahaRERA Regn: P51800000165.

(The Trees, Residential Phase 1)

Coram: Shri B.D. Kapadnis,
Member-II.

Appearance:

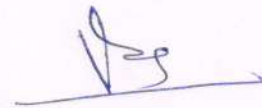
Complainant: In Person.

Respondents: Adv. Ms. Sonal Shah.

FINAL ORDER

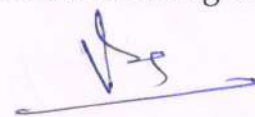
27th July, 2020

The complainant has booked flat no. J-1303 in respondents' registered project 'The Trees- Residential Phase 1' situated at Pirojshanagar, Vikroli (East), Mumbai. The agreement for sale thereof has been executed on 13.04.2017. It is the contention of the complainant that, the respondents agreed to allot two car parking. Now they are ready to give only one car parking and they have refused the second. Therefore, he prays to direct the respondents to allot second car parking space in the same project, phase-1. He has also referred to some issues regarding defective flooring etc. However, the complainant submits that he got the flat repaired at his own cost and therefore that issue is over. Only issue of giving possession of second car parking space is pending.



2. The respondents have pleaded not guilty and they have filed reply to contend that inadvertently two car parking spaces are recorded in the agreement for sale due to manual feeding of the information by the staff. There is a sincere mistake on the part of the respondents to record two car parking. The respondents contend that all 374 flats in the project with one carparking space for each have been sold. The respondents have mapped all the car parking spaces on the basis of individual flat including that of the complainant. Therefore, there is no space left for giving a second car parking to the complainant. The respondents want to settle the issue amicably and therefore ask to reserve the order and accordingly the order is reserved for two-three days for giving breathing time to the parties. But nothing is heard from the respondents regarding the settlement of the issue and therefore it is necessary to decide this matter.

3. There is no dispute between the parties that it is specifically mentioned in the agreement for sale that two car parking spaces would be given to the complainant. Now the respondents have come with defence that instead of one, two car parking spaces have been mentioned in the agreement for sale by mistake. Complainant Mr. Prashant submits that in negotiations respondents specifically agreed to allot two car parking spaces and cost of the flat was decided on its basis. He brings to my notice one email of respondents' confirmation dated 30.10.2016 in which it is specially mentioned that two car parking spaces would be allotted to the complainant. Therefore Mr. Choudhary submits that it falsifies the respondents' stand that because of the manual mistake while drafting the agreement for sale two car parking spaces instead of one are mentioned. I have given thought to these facts. E-mail of confirmation sent by respondents well before agreement of sale makes the defence of the respondents unacceptable. Agreement for sale becomes binding on the




respondents to allot and give two car parking spaces. In this context it is necessary to refer Section 91 and 92 of the Indian Evidence Act. It says that once the document in respect of disposition of the property is recorded then the oral evidence is not admissible to rebut its contents. The contents of the document become the proof of recorded facts. In view of these legal and factual aspects of the case, I find that respondents are bound to hand over two car parking spaces to the complainant. Mr. Prashant also submits that it should be in the same phase no. 1. He insists to give two car parking spaces and does not want any other solution. The respondents have contended that all the flats of the project have been sold and one car parking for complainant has been reserved. Now it is difficult for them to provide the second car parking to the complainant. However, the respondents will have to find out the way out. But so far as the legal rights of the complainant are concerned, the respondents are contractually liable to provide him second car parking space and hence I proceed to pass the following order.

ORDER

- A. The respondents shall provide the second car parking space in the same project i.e. phase No.1 to the complainant.
- B. The respondents shall pay the complainant Rs. 20,000/- towards the cost of the complaint.

Uploaded at Mumbai.
Date: 27.07.2020.


27.7.2020
(B. D. Kapadnis)
Member-II,
MahaRERA, Mumbai.