

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI
COMPLAINT NO. CC006000000196130

Shivam Megastructures Pvt Ltd

MahaRERA Reg. No. P51800000812

...

Complainant

Versus

Hitendra V Shah

...

Respondent

Coram Shri Ajoy Mehta, Hon'ble Chairperson

Complainant represented by Mr. Vijay Waghela, Adv

Respondent represented by Mr. Sumit Kapure, CA

Order

May 2021

1. The Complainant, promoter of the project "Godrej Tranquil" situated at Borivali, Mumbai has stated in their Complaint that the Respondent allottee has not complied with the Order date January 4, 2021 passed in Complaint no: CC006000000192862 filed by the Respondent himself. Therefore, they have prayed that the Respondent be directed to comply with the directions passed in the said Order.
2. Hearings were held through video conference as per MahaRERA Circular no: 27/2020.
3. On the first date of hearing on March 22, 2021, The Authorised Representative of the Respondent, Mr. Sumit Kapure, CA, via email dated March 22, 2021 sought an adjournment on medical grounds. Adjournment was therefore, granted.
4. On the next date of hearing on April 8, 2021, both parties unfortunately kept arguing around the issue rather than staying put with the issue. Therefore, the parties were directed to send specific answers to the queries raised as below:

Queries for the Complainant

1. Please clarify which para/ aspect of Order dated January 4, 2021 have not been complied by the Respondent.
2. Please clarify what efforts were made by the Complainant to secure compliance by the Respondent
3. Under which section or regulation, the Complainant seeks compliance of the issues that remain unfulfilled

Queries for the Respondent

1. Have you complied with all the aspects of the Order dated January 4, 2021?
2. If any part, please mention which part, has been complied in part, please mention the same and reasons for noncompliance, in full.
3. Please give reasons for noncompliance, if any, of the Order dated January 4, 2021

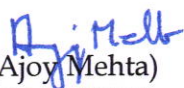
5. The Complainant has uploaded their reply to the queries raised by the bench. The Respondent has, via email dated April 20, 2021, filed their reply to the Complaint. The same has been perused.

6. The Respondent has raised a preliminary issue stating that the present Complaint is barred by the principle of *res judicata* submitting that the substantial issues between the parties have already been adjudicated upon and therefore they cannot be adjudicated upon again. However, it is observed that the Complainant is only seeking compliance of the directions passed vide the said Order.

7. It is also observed that while the parties have made efforts to comply with the directions passed in the said Order, the dispute between the parties does not seem to be ending.

As per the previous Complaint no: CC006000000192862 filed by the Respondent, the Respondent had sought that the agreements be executed between him and the Complainant. Post the Order being passed, the Respondent has requested that the agreements be executed in the name of his family members and the Complainant. Further, there seems to be a dispute regarding when and how the balance amount and interest, if any and as applicable, shall be paid by the parties.

8. Hon'ble Member 1, MahaRERA has sufficiently dealt with the grievances of both parties vide Order dated January 4, 2021 and as such require no further adjudication is required for the same.
9. In view of the above, the parties are directed to adhere to the directions passed in the said Order.
10. Subsequently, the present Complaint is hereby disposed off.


(Ajoy Mehta)
Chairperson, MahaRERA