

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

Complaint No: CC00600000078228

Sriram Swaminathan ... Complainant

Versus

Sanvo Resorts Pvt. Ltd.

MahaRERA project Regn. No. P52000000547 ... Respondent

Coram: Shri Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present. Respondent represented by Mr. Prasanna Tare, Adv

Order

December 2, 2020

1. The Complainant has purchased apartments bearing nos: 407 and 408 /S1-A in the Respondent's project named "MARATHON NEXZONE ZODIAC -1 'via registered agreements for sale dated May 31, 2013. The Complainant has stated that the Respondent has failed to handover possession of the said apartments, car parking and amenities within the time stipulated by the said agreements. Therefore, the Complainant has interalia prayed to direct the Respondent to pay him interest for the delay in handing over possession, provide car parking as per the agreement, not to claim the club membership fees and to reduce the maintenance and service cost of the same until the same is ready for use.
2. The learned counsel for the Respondent submitted that the part OC was obtained in March 26, 2018 and possession has already been handed over to the Complainant much before the said complaint was filed with MahaRERA. Further, he submitted that the Respondent is ready to allot exclusive car parking as the terms and conditions of the said agreements to the Complainant. Further, he submitted that the said project is a larger layout project and that partial amenities have already been provided to the Complainant and the remaining amenities will be provided at the time of completion of the said project.
3. The Complainant submitted that the Respondent has provided stack parking to the Complainant and the same is not for exclusive use of the Complainant as provided in the said

agreements. Further, he submitted that the Respondent has taken full amounts for amenities and their maintenance but is yet to provide the same as per the said agreements.

4. The learned counsel for the Respondent has submitted that car stack parking bearing no: UB2-06A/B and UB2-05A/B has been earmarked for the exclusive use of the Complainant and is as per the terms and conditions of the said agreements. Further, he submitted that the Respondent will refund amounts taken for the club-house not yet provided.
5. Section 18 (1)(a) of the said Act reads as:

*“ if the promoter fails to complete or is unable to give possession of an apartment, plot or building, –
(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein;*

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed. “

Simple present tense used in the starting line of Section 18 clearly indicated that the provision shall apply only till the project is incomplete or the promoter is unable to give possession. Once the project construction is complete or possession is given, as the case may be, the said provision ceases to operate.

6. In view of the above facts, the Respondent cannot be held liable to pay interest on delay to the Complainant, as per section 18 of the Real Estate (Regulation and Development) Act, 2016. However, the Respondent shall refund the amounts taken from the Complainant for club-house and their maintenance, yet to be provided for, along with interest at the rate of State Bank of India MCLR plus two percent, within 30 days of this order. The Complainant shall be required to pay for the said amenity as and when the same is provided.
7. Consequently, the complaint is hereby disposed of.

Gautam Chatterjee Digitally signed by Gautam Chatterjee
Date: 2020.12.02 08:55:24 +05'30'
(Gautam Chatterjee)
Chairperson, MahaRERA