

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

COMPLAINT NO. CC006000000054953

Mr. Vikas S. Arora Complainant
Versus

M/s. Sanvo Resorts Pvt. Ltd. Respondent

MahaRERA Registration No. P52000000658

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

Adv. Aditya Deolekar for the complainant

Adv. Dhawal Vassonji & Associates for the respondent.


Order
(30th July, 2018)

1. The complainant has filed this aforesaid complaint seeking directions of this Authority to the respondent to pay interest and compensation under Section-18 of the Real Estate (Regulation & Development) Act, 2016 for the delayed possession and also to pay the difference of GST and Service Tax for loss suffered on account of implementation of GST in respect of booking of a flat bearing no. 204, adm. 52.31 sq. mtr. carpet area, on 2nd floor in the Building known as 'Zenith' of Marathon Nexzone bearing MahaRERA Registration No. P52000000658 at Panvel, Dist. Raigad.
2. The complainant stated that he had purchased the flat in the respondent's project vide registered Agreement for Sale dt. 21.06.2013. As per clause-15 of the said Agreement, the respondent was liable to hand over the possession of the said flat to the complainant with O.C. on or before 31st Dec. 2015. However, till date the respondent has not handed over the physical possession of the flat to the complainant. Hence the present complaint has been filed. The complainant further alleged that the respondent has obtained part Occupancy Certificate

for the said project. However, he has not complied with the terms and conditions levied by the competent authority, namely, CIDCO and therefore, he cannot occupy the said flat till it is fulfilled by the respondent.

3. However, the respondent disputed the claim of the complainant and raised the issue of maintainability of the present complaint filed by the complainant. The respondent stated that he has obtained the part Occupancy Certificate on 26.03.2018 for the building wherein the complainant's flat is situated well before the date of filing of this complaint. Hence, the present complaint is not maintainable under Sec. 18 of the RERA Act. The respondent further stated that the other issues raised by the complainant such as the street lights and water facility for the said flat cannot be agitated since the complainant has not pleaded the same in the complaint. However, the respondent showed his willingness to hand over the possession of the flat to the complainant within a period of 15 days from the date of final outstanding payment by the complainant.
4. This Authority has examined the submissions made by both the parties as well as the records available with this Authority. Apparently, there is a delay on the part of the respondent in handing over the possession of the flat to the complainant as per the agreed terms and conditions of the registered Agreement executed between the complainant and the respondent. Section-3 of the RERA Act provides that the ongoing projects for which the Occupancy Certificate has not been obtained were required to be registered with MahaRERA. In the present case, the complainant filed online complaint on 15.06.2018. However, the respondent had obtained part Occupancy Certificate i.e. on 26.03.2018 from the competent authority i.e. CIDCO (NAINA) offering possession to the complainant subject to payment of balance amount.

5. This Authority has observed that the complainant has not made any averment or complaint with respect to the completion of the project and/or the part Occupancy issued by the competent authority and therefore, he cannot seek any relief with respect to the completion of the project.
6. In the light of these facts and in compliance of principles of natural justice and also as the flat is ready with O.C. this Authority passes the following orders :
 - a) The respondent is directed to hand over the possession of the complainant's flat within a period of 15 days from date of receipt of this order.
 - b) At the time of possession, the complainant is directed to hand over the Demand Draft for the outstanding amount due for payment to the respondent.
 - c) The respondent is also directed to comply with all the conditions and directions issued by the competent authority and provide all required information to the complainant.
 - d) The respondent is directed to take steps for formation of the Co-operative Housing Society of the allottees under Section 11(4)(e) of the RERA Act, 2016.
- 7) With these directions, the complaint stands disposed off.


(Dr. Vijay Satbir Singh)
Member-I, MahaRERA