

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000110745

Salman Usman Kazi ... Complainant

Versus

Lucina Land Development Limited ... Respondent
MahaRERA Regn. No. P52000000835

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented by Mr. Sumit Kapure, Authorised representative.
Respondent was represented by Mr. Abir Patel, Advocate, (Wadia Gandhi & Co.).

Order

March 02, 2020

1. The Complainant has stated that he has booked an apartment bearing No. 2701 in block 37 sector - 14 in the Respondent's project 'Indiabulls Park 2' situated at Panvel, Raigad via Application Form dated August 18, 2011. The Complainant stated that the Respondent has failed to handover possession of the said apartment till date. Therefore, the Complainant has prayed that the Respondent be directed to refund the amounts paid along with interest and compensation.
2. The learned counsel for the Respondent contesting and denying the allegation made by the Complainant, submitted that the Complaint has cancelled the said booking in the August 2018 which has been accepted by the Respondent and was conveyed to the Complainant that the refund if any will be as per the terms and conditions of the booking letter. He also submitted that the Respondent is willing to execute and register the agreement for sale and that the Respondent will handover possession as per the timeline stated in the Respondent's registration webpage.



3. During the course of the hearing, it was explained to the Complainant's authorised representative that no order for refund with interest as per section 18 of the said Act can be passed since the no agreement for sale has been executed and registered between the parties.

4. Section 18 (1) of the Real Estate (Regulation and Development) Act 2016 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;

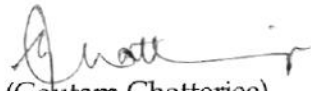
he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed 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. "

Accordingly, since no agreement for sale has been executed and registered between the parties, provisions of section 18 of the said Act does not apply to the present case.

5. In view of the above facts, if the Complainant intends to continue in the said project, the parties are directed to execute and register the agreement for sale within 30 days from the date of this Order.

6. In case, the Complainant is still firm on his decision to cancel his bookings and his intention to withdraw from the said project, then refund, if any, shall be guided by the terms and conditions of the Application Form.

7. Consequently, the matter is hereby disposed of.


(Gajam Chatterjee)
Chairperson, MahaRERA