

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC00600000089687

Abner D'souza ... Complainant

Versus

Lucina Land Development Limited ... Respondent
MahaRERA Regn.No. P52000000709

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present and was represented by Mr. Ramesh Prabhu, CA along with Mr. S. Parthasarathy.

Respondent represented by Mr. Abir Patel, Adv, i.b. Wadia Ghandy & Co. along with Mr. Soham Hatkar, Authorised Representative.

Order

September 02, 2020

1. The Complainant has stated that he had booked an apartment in the Respondent's project 'Indiabulls Park 1', MahaRERA Regn No. P52000000709, situated at Panvel, Raigad through a provisional booking form dated December 8, 2013. The Complainant alleged that the Respondent has failed to execute and register the agreement for sale. Further, he submitted the project has undergone various changes and therefore the Respondent be directed to refund the entire amount paid by him along with interest as per Section 12 of the Real Estate (Regulation and Development) Act 2016 and also pay him compensation as per the provisions of section 19(1) of the said Act.
2. The learned counsel for the Respondent submitted that the Complainant has ceased to be an allottee in the project against which the present Complaint has been filed, as the Complainant, in 2014, had himself opted to take an alternative apartment in another phase of the project which is different from the project phase in which the complaint has been filed and therefore, the present Complaint is not maintainable. He, further, submitted that there is no agreed date of possession as the Complainant has till date not decided which apartment he wants to purchase. He also submitted that the Respondent had in 2014 offered to refund the amount paid by the Complainant but

the Complainant did not take the option of refund and has till date not decided on the alternative apartment in the completed phase. He added that the Respondent has till date borne and paid pre-emi for the said apartment on behalf of the Complainant.

3. On the final date of hearing, the learned counsel for the Respondent submitted that the Respondent is willing to execute and register the agreement for sale with the Complainant for apartment bearing no. 6G-3201, in the completed phase of the project for which the occupancy certificate has been obtained in 2017 itself, so that the Complainant is not subject to any forfeiture of amount paid. He added that the Complainant can secure his status an allottee in that completed phase of the project if he chooses to accept the allotment now and proceed to finalize the transaction.
4. The authorised representative of the Complainant submitted that the Complainant is willing to consider the offer given by the Respondent. Further, he sought time to respond to the Affidavit in Reply uploaded by the Respondent.
5. Accordingly, seven days' time was given for the same and the matter was reserved for final order on September 02, 2020. However, no documents or rejoinder to the Respondent's affidavit has been uploaded by the Complainant. However, the representative of the Complainant, through an email dated September 02, has mentioned that Complainant has requested for an inspection of the apartment offered in the completed phase 1 and the said inspection will happen after September 04, 2020. Therefore, he has, requested for further 15 days' time to give his written submission.
6. Clearly, the complaint filed against the project MahaRERA Regn No. P52000000709 is not maintainable as the Complainant is no longer an allottee in the said project, having opted out in 2014 itself and the Complainant's cause of action has arisen much before the said Act came into force. Therefore, no directions can be issued under the same.
7. Consequently, the matter is hereby disposed of.

**Gautam
Chatterjee**

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Gautam Chatterjee
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(Gautam Chatterjee)
Chairperson, MahaRERA