

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO: CC00600000000745

Achal Tiwari

...

Complainant

Versus

Bellissimo Hi Rise Builders Pvt Ltd (Lodha Developers Pvt. Ltd.  
MahaRERA Regn:  
P51700000342

...

Respondent

**Coram**

Hon'ble Shri Gautam Chatterjee, Chairperson

25<sup>th</sup> October 2017

**Order**

Complaint was pleaded by the complainant himself.

Respondent was represented by Mr. Rahul Vardhan, Adv and Mr. Nitin Waghmare, Adv.

The Complainant had booked an apartment in the respondent's project 'Palava Viento' located at Palava, Dombivali, under a registered agreement for sale dated June 18, 2014 and the date of possession was stated as July 31, 2016 with a further grace period of 12 months. Sometime in April 2016, via emails, the respondent had conveyed to the complainant that the possession of the said apartment will be handed over by the end of May 2017. Further, the emails stated that in case the complainant intends to cancel his allotment on the basis of the assumption that the possession may be delayed beyond the stipulated period, such cancellation shall be guided by the terms and conditions of the agreement for sale. On 29 June 2016, the parties executed the deed of cancellation.



The complainant has alleged that the respondent has not refunded the amount as promised and offered before the execution of the deed of cancellation and has prayed that the respondent be directed to refund the said amount with interest.

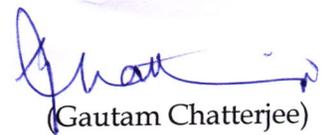
It was observed that the complainant has also filed a case against the respondent before the State Consumer Disputes Redressal Commission, Mumbai on the same grounds as pleaded before MahaRERA. On the first date of hearing on October 11, 2017 the complainant stated that the matter before the consumer forum has not been listed for hearing, hence, he has filed this complaint application before MahaRERA. However, the complainant was reminded that he has given a declaration while filing the complaint that the matter regarding which this complaint has been made is not pending before any court of law or any other Authority or any other Tribunal(s).

The complainant assured the Authority that he will withdraw the said case from the State Consumer Disputes Redressal Commission before the next date of hearing before MahaRERA.

On the second date of hearing on October 25, 2017 the advocates for the respondent argued the complaint before the MahaRERA is barred by the principle of "*res subjudice*" as the complainant has not withdrawn his complaint filed before the State Consumer Disputes Redressal Commission till date.

Complainant was not present.

In view of the aforesaid facts, since the complainant has not submitted to MahaRERA that he has withdrawn his complaint filed before the State Consumer Disputes Redressal Commission, the matter is dismissed for default.



(Gautam Chatterjee)  
Hon'ble Chairperson, MahaRERA