

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

Complaint No. CC00600000078277

1. M/s. Bagaria & Company Pvt Ltd.
2. Mr. Arun Bagaria
3. Mrs. Madhu Bagaria Complainants
Versus

1. M/s. Rajsanket Realty Pvt Ltd
2. M/s. Ask Corporation Respondent

Project Registration No. P51800012243

Coram: Hon'ble Dr. Vijay Satbir Singh, Member – 1/MahaRERA

Adv. Ajay Yadav appeared for the complainants.
Adv. Yogini Gada appeared for the respondent.


ORDER

(7th August, 2019)

1. The complainants have filed this complaint seeking directions from MahaRERA to the respondents to execute registered agreement for sale, as provided under section-13 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "the RERA Act, 2016) in respect of booking of a flat No. 1706, admeasuring 95.82 sq.mtrs carpet area, in the respondent's project known as "**Raj Infinia**" bearing MahaRERA registration No. P51800012243 at Malad (West), Mumbai.
2. This matter was heard finally on 28-05-2019, when both the parties appeared through their respective advocates and argued the case. During the hearings, the complainants have argued that they are the allottees and have jointly booked the said flat for a total consideration amount of Rs. 1,88,81,600/-. The respondent No. 2 is the original promoter, who has submitted the S.R. Scheme of larger property. By executing the registered

agreement dated 17-06-2005, the respondent No. 2, entrusted the development rights of the said larger property to respondent No. 1, as a joint venture. According to the said joint venture agreement, the respondent No. 2 was entitled to 18% area sharing in the saleable component of the said project. The respondent No.1 has proposed sale component having 3 wings (A, B and C), having basement, ground / stilt and also 1st & 2nd level podium, alongwith 36 habitable floors. The complainant booked 3 BHK flat in the respondent' project known as "**Raj Imperial**" being flat No.1706 on the 17th floor in Wing B. At that time, the respondent No.1 had informed the complainant that the plans had been sanctioned for 26th floor and that they would construct the sale component on portion of First Phase of the property. Accordingly, the respondent No.1 had issued letter of allotment dated 12.04.2018 for the booking.

3. Thereafter, vide letter dated 12.04.2018, the respondent No.1 informed that the possession of the said flat will be handed over by 30.06.2019, failing which he shall be liable to pay interest @ 9% per annum. As per the allotment letter, the complainants have paid an amount of Rs.1,30,34, 949/- through NEFT and Cheque, which comes to 69.04% of the total consideration. However, till date the respondent have failed to and neglected to execute the registered agreement for sale with the complainants, in spite of the complainants following up with the respondents. The complainants, therefore, vide letter dated 25.10.2018, addressed to the respondent No.1, requested for executing the registered agreement. But, the respondent No.1 neither replied the same nor executed the agreement for sale with the complainants and hence, the complainants have filed this complaint seeking directions from MahaRERA to respondent No. 1 for execution of the registered agreement for sale.



4. This matter was heard by MahaRERA on 28.05.2019. During the hearings, the parties showed their willingness to settle the matter amicably. However, they could not settle the matter amicably. Hence, this matter is heard and decided on merits. The respondents appeared and made oral submissions and shown willingness to execute the registered agreement for sale with the complainants within a period of 90 days.
5. The MahaRERA has examined the arguments advanced by the respective parties. In the present case, prima facie, it appears that the complainants have booked the said flat in the project jointly undertaken by the respondent No.1 and 2. As per the Joint Venture Agreement, executed between the respondent No.1 and 2 dated 17.06.2005, the respondent No.1 is entitled to have a sale component on larger portion of the land in the said project. Accordingly, the respondent No.1 had issued allotment letter dated 12.04.2018 and confirmed the said booking. It is an admitted fact that the flat was booked for a total consideration amount of Rs.1,88,81,600/- out of which the complainant has paid an amount of Rs. 1,30,34,949/- which comes to more than 10% of the total cost.
6. The provisions of Section -13 of Real Estate (Regulation and Development) Act 2016 and the Rules and Regulations made there under provides that the promoter cannot accept more than 10% from the allottee, till the agreement for sale is registered as per Model Agreement prescribed under the and the RERA Act, 2016 and the Rules and Regulations thereunder.
7. In the present case, the respondent No.1 has accepted more than 10% amount from the complainants allottees without executing registered agreement for sale. Thus, the respondent No. 1 has violated the provisions of section-13 of the Real Estate (Regulation and Development) Act 2016.

8. In the light of aforesaid facts, the MahaRERA directs the respondents to execute registered agreement for sale with the complainants in accordance with allotment letter dated 12-04-2018 as provided under section-13 of the RERA Act, 2016 and the rules and regulations made there under, within a period of 30 days from the date of this order, failing which he shall be liable to pay the amount of Rs.15,000/- per day till the order of MahaRERA is complied with.
9. With these directions, the complaint is disposed of.



(Dr. Vijay Satbir Singh)
Member – 1/MahaRERA