

**THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI.**

COMPLAINT NO: CC006000000054739.

Nayana Vishal Sonawane

... Complainant.

Versus

Milind Mahendra Ruparel
(Ruparel Orion)

...Respondents.

MahaRERA Regn: P51800004525

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Appearance:

Complainant: Adv. Anand Prakash Mishra.

Respondents: Adv. Rubin Vakil.

FINAL ORDER

3rd October 2018.

The Complainant has filed this complaint under Section 13 of Real Estate (Regulation and Development) Act, 2016(RERA) to contend that he booked flat no. D-704, located at 7th floor in the respondents' registered project 'Ruparel Orion' situated at Chembur (West). The respondents failed to execute the agreement for sale even after receiving more than 10% of the consideration. Hence he seeks the direction for execution of the agreement for sale.

2. The respondents admit that the complainant booked flat no. 704 in D-wing of their project for total consideration of Rs. 68,00,000/- out of which he paid Rs. 30,00,000/- at the time of booking. They contend that they were and are ready to execute and register the agreement for sale. However, the complainant was in some financial difficulty and hence, he did not come forward for getting the agreement executed. They further contend that they are ready to execute the agreement provided the complainant makes the payment of the amount which has become due to them. They deny that they agreed to sell car parking place and hence, they request to dismiss the complaint.



3. The respondents do not dispute that they issued allotment letter dated 18th March 2014 allotting the flat no. 704, D-wing on the 7th floor of building known as 'Orion' admeasuring 491 sq. feet. The respondents are ready to execute the agreement for sale of this flat for the total consideration of Rs. 68,00,000/-.

4. The complainant requests that the respondents should mention in the agreement for sale about one car parking. The allotment letter does not speak about the car parking. Moreover, the except garage the promoter has no right to sell the place of car parking open or covered, hence, it cannot be directed.

5. To conclude, the respondents have received more than 10% of the total consideration of the flat and hence under Section 13 of RERA, they are bound to execute the agreement for sale of the booked flat in complainant's favour in consonance with the terms and conditions of allotment letter. It is also necessary to direct the respondents to provide all the common amenities to the complainant. In the result, the order.

ORDER


The respondents shall execute the agreement for sale of flat no. D-704 admeasuring 491 sq.ft. of Orion building of their registered project situated at Chembur(West) in consonance with terms and conditions contained in the allotment letter by using the model format of the agreement provided under RERA in complainant's name within three weeks from this order.

The respondents to provide all the common amenities to the complainant and incorporate them in the agreement for sale.

The complainant shall bear the amount of stamp duty and registration charges.

Mumbai.

Date: 03.10.2018.


3.10.18
(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.

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Versus

Milind Mahendra Ruparel
(Ruparel Orion)

... Respondents.

MahaRERA Regn: P51800004525.

Coram: Shri B.D. Kapadnis, Hon'ble Member,
MahaRERA, Mumbai.

Appearance.

Complainant: In person.

Respondent: Absent.

Order on the application filed by the complainant for executing the order.

25th February 2019.

The complaint has been decided on 3rd October 2018. The respondents have been directed to execute the agreement for sale in complainant's favour of flat no. D-704, measuring 491 sq.ft. located at 7th floor in respondents' registered project Ruparel Orion situated at Chembur (West) under Section 13 of RERA within three weeks from the order dated 03.10.2018. The order reads as under :

" The respondents shall execute the agreement for sale of flat no. D-704 admeasuring 491 sq.ft. of Orion building of their registered project situated at Chembur (West) in consonance with terms and conditions contained in the allotment letter by using the model format of the agreement provided under RERA in complainant's name within three weeks from this order.

The respondents to provide all the common amenities to the complainant and incorporate them in the agreement for sale.

The complainant shall bear the amount of stamp duty and registration charges. "



2/- The complainant complains that the respondents have not complied with the order. Hence she requests to execute/enforce the same.

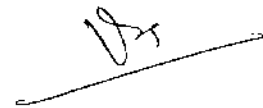
3/- Section 40(2) provides that if any Adjudicating Officer or the Regulatory Authority or the Appellate Tribunal issues any order or directs any person to do any act or refrain from any act, which it is empowered to do under RERA or the Rules and Regulations made thereunder, then in case of failure of any person to comply with such orders or directions, the same shall be enforced in such manner as may be prescribed.

4/- Rule 4 of The Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of Complaints and Appeal Etc.) Rules, 2017 provides that every order passed by the Adjudicating Officer or the Authority under the Act or the Rules and Regulations made thereunder shall be enforced by the Adjudicating Officer or the Authority in the same manner as if it were a decree or the order made by the Principal Civil Court of original jurisdiction in a Suit. Therefore, this Authority has jurisdiction to enforce the order passed in the complaint's case.

5/- So far as the execution of the agreement for sale is concerned, the provisions of order XXI, Rule 34 of Code of Civil Procedure will have to be followed. Therefore, I proceed to pass the following order.

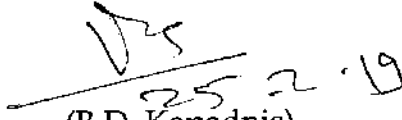
ORDER

1. The complainant shall serve a draft of proposed agreement for sale on the respondents before 25.03.2019.
2. If the respondents want modification/changes in the draft, they shall appear before the Authority on the said date.
3. After hearing the parties necessary directions for changing/modifying the draft, if required shall be given.
4. Thereafter the complainant shall transcribe the draft on the requisite stamp paper and respondents shall execute and register it on the date specified by the Authority.



5. In case of respondents' failure to execute and register the agreement, the Secretary of MahaRERA shall execute and register the agreement on behalf of the respondents at the cost of complainant.
6. The agreement for sale executed by the Secretary of MahaRERA will be deemed to be the agreement executed by the respondents themselves and shall be binding on them.

Mumbai.
Date: 25.02.2019.


(B.D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.