

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

Complaint No. CC00600000090091

Deepak Keni

.... Complainant

Versus

M/s. Sheth Creators & Sun Vision Pvt. Ltd.

.... Respondent

Project Registration No. P51800015507

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

Adv. Aniruddha Tapkire appeared for the complainant.

Adv. Pranjali Joshi appeared for the respondents.

ORDER

(22nd January, 2020)

1. The complainant has filed this complaint seeking directions from MahaRERA, to the respondents, to revoke the registration of the MahaRERA registered project known as **"Irene Wing A Phase I"** bearing No. P518000015507 under section-7 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "RERA").
2. This matter was heard on several occasions and the same was heard finally today, when both the parties appeared through their respective advocates and made their submissions. During the course of hearing, the respondents have filed their reply to the complaint.
3. It is the case of the complainant that, he is an owner of the property on which, the respondents are developing the said project. He stated that, a deed of conveyance was entered into between the complainant's predecessors and the respondents in the year 1995. However, it was not registered by the parties to the deed. According to the deed of conveyance, the plot of land was to be sold for Rs. 9,00,000/-. Out of the said consideration, the respondents paid Rs. 1,50,000/- to the complainant and the remaining amount was to be paid on or before 31/08/1995. However, the said sum was never paid. In the year 2010, the respondents notarised a fabricated indemnity bond through which the said deed of conveyance was registered unlawfully. By way of the registration, the respondents took




possession of the said land. The respondents later on submitted forged documents to the SRA and received the LOI for construction of the project and also amalgamated all the three societies which were surrounding the disputed property. The complainant also stated that, he has filed a complaint for cheating and forgery, etc. before the Chief Metropolitan Magistrate's Court. The complainant has, therefore, filed this complaint seeking relief from MahaRERA to revoke the registration of the said project being developed by the respondents. The complainant also sought reliefs under various sections of the RERA.

4. The respondents filed their reply on record of MahaRERA and disputed the claim of the complainant and stated that, the deed of conveyance on which the complainant was seeking injunction was executed by his predecessors and they never challenged the registration of the same. The respondents challenged the jurisdiction of MahaRERA for hearing the dispute relating to civil courts. The respondents further stated that the complainant has also filed suits before the City Civil Court, Dindoshi seeking similar reliefs as are being sought in the present complaint, and hence the complaint ought to be dismissed.
5. The respondents further stated that, the complainant is not even an allottee in the said project and hence, he cannot come before MahaRERA seeking any reliefs. The respondents further prayed for direction to them to refund the money paid by the allottees with interest to them. They also stated that, since the MahaRERA has not yet issued any notice to them regarding the project land, the order under section-7 should not be passed and therefore, prayed for the dismissal of the said complaint with compensatory costs.
6. The MahaRERA has examined the arguments advanced by both the parties, as well as the record. In the present complaint, the complainant is seeking revocation of the MahaRERA registration granted in favour of the respondents/promoter on the ground of the ownership issue.



7. The respondents, on the other hand, have denied the contention raised by the complainants mainly on the ground that the conveyance deed relied upon by the complainants against which he is seeking relief was executed by the complainant's predecessor and the said document was never challenged. In short, the complainants are seeking revocation of the registration on the ground of ownership. In this regard, the MahaRERA is of the view that the MahaRERA has no jurisdiction to try and entertain the dispute with regard to ownership. However, the Civil Court has jurisdiction to that effect. With regard to the relief sought by the complainants under section-7 of the RERA, the MahaRERA is of the view that the MahaRERA registration could be cancelled if the promoter makes any default in doing anything required by us under the RERA and if the promoter violates any of the terms and conditions of the permission granted by the competent authority i.e. the Planning Authority or if the promoter is involved in any kind of unfair practice or irregularities as stated in section-7(1)(c)(A)&(B) of the RERA. However, in the present case, the complainant has not produced any cogent documentary proof on record of MahaRERA to show that the respondents have done anything to be liable for action under the provisions of section-7 of the RERA. Hence, the relief sought by the complainant, under section-7 of the RERA, cannot be considered.
8. The complainant has to exhaust the remedy available under the law by approaching the Civil Court of law or the concerned competent authority raising the issue of ownership and/or unauthorised construction, violation of any permission granted by the competent authority and establish his claim. Only then, the MahaRERA would take cognizance of it thereafter.
9. With the above observations, the complaint stands disposed of.


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