

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC00600000058061

Bijoya Laxmi Gantayat ... Complainant

Versus

Era Realtors Private Limited
MahaRERA Regn. No. P51800010463 ... Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented by Mr. Ajay Varekar, Adv.
Respondent was represented by Mr. Devendra Patankar, Adv.

Order

November 01, 2019

1. The Complainant has booked an apartment bearing no. B-2406 in the Respondent's project 'Alta Monte and Signet' situated at Borivali, Mumbai in 2015. The Complainant stated that he has been following up with the Respondent for executing and registering the agreement for sale, however the Respondent has failed to do the same or handover possession of the apartment till date. Therefore, the Complainant prayed that the Respondent be directed to refund the amount paid by him along with interest.
2. The learned counsel for the Respondent submitted that the project is an SRA project and it could not be completed for reasons beyond his control. The parties then sought time to settle the matter amicably.
3. During the course of the hearing, it was explained to the Complainant's counsel that no order for refund with interest as per section 18 of the said Act can be passed since no agreement for sale has been executed and registered between the parties.




4. Section 18 (1) of the Real Estate (Regulation and Development) Act 2016 reads as:

“ if the promoter fails to complete or is unable to give possession of an apartment, plot or building, – (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein;

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed. “

Accordingly, since no agreement for sale has been executed and registered between the parties, provisions of section 18 of the said Act does not apply to the present case.

5. In view of the above, the parties are directed to execute and register the agreement for sale as per the provisions of section 13 of the Real Estate (Regulation and Development) Act 2016 and the rules and regulations made thereunder within 30 days from the date of this Order.
6. Alternatively, if the Complainant intends to withdraw from the said project then such withdrawal shall be guided by the terms and conditions of the said Allotment Letter or as agreed between the parties.
7. Consequently, the matter is hereby disposed off.


(Gautam Chatterjee)
Chairperson, MahaRERA