

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

**COMPLAINT NO. CC006000000078369**

RASHMI BEHERA

..Complainant

Verses

DANISH ANSARI

..Respondent

MahaRERA Regn. No. P51800012210

**Coram:**

Hon'ble Shri Madhav Kulkarni,  
Adjudicating Officer, MahaRERA.

**Appearance:**

Complainant: In Person  
Respondent : Absent

**ORDER**

**(Dated 18<sup>th</sup> November, 2019)**

1. The complainant/allottee who had booked flat with the respondent/promoter seeks refund of money paid by her to the respondent.
2. As per online complaint, for purchase of 2BHK flat from respondent, complainant gave token money of Rs.3 lakhs. Construction was undertaken by the respondent at Vatsala Tai Naik Nagar, Chembur, Mumbai in the name Mass Metropolis. It is alleged that complainant has not booked any flat in the said project Mass Metropolis. Money was given in March/April, 2015. Complainant asked for refund of her money. Respondent went on promising to refund money. Complainant gave application to respondent on 06.09.2015 and then on 30.05.2018. Respondent threatened to deduct Rs.1 lakh as cheque bounced

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charges, through such was not a case. Security guard of the respondent misbehaved with the complainant. Hence, this complaint.

3. The complaint came up before the Hon'ble Member on 13.05.2019 and came to be transferred to Adjudicating Officer. Matter came up before me on 23.07.2019. Respondent was absent. Matter was adjourned for ex-parte hearing to 20.08.2019. On that day, respondent was absent. Arguments for complainant were heard. As I am working at Mumbai and Pune Offices in alternative weeks, and due to huge pendency in this office, this matter is being decided now.
4. Following points arise for my determination. I have noted my findings against them for the reasons stated below:

<b>POINTS</b>	<b>FINDINGS</b>
1 Is the complainant an allottee?. If yes, has the respondent failed to deliver possession of the flat to the complainant as per agreement, without there being circumstances beyond his control?	Negative
2 Is the complainant entitled to the reliefs claimed?	Negative
3 What Order?	As per final Order.

#### **REASONS**

6. **Point Nos. 1 & 2** - Grievance of the complainant is that, respondent has not refunded her token money. Complainant has averred that she deposited token money of Rs.3 lakhs with the builder for purchase of 2 BHK flat in the proposed building Mass Metropolis at Chembur. Out of which Rs.80,000/- were paid on 30.03.2015, Rs.20,000/- on 30.03.2015 and Rs.2 lakhs on 02.04.2015. Complainant has further, averred that she has not booked any flat as yet in the said project. She demanded back the amount paid to the respondent. As per definition of the Allottee as per Real Estate (Regulations and Development) Act, 2016, he is a person to whom flat has been allotted/sold or ..... otherwise transferred by

promoter". The complainant claims that she paid token amount to the respondent. She has asserted not once but twice that she did not book any flat in the project of the respondent. Respondent has also not allotted any flat to the complainant. May be that complainant paid the money to the respondent with intention of purchasing some flat or other from him. In fact the receipt issued by the respondent shows that amount was received towards purchase of 2BHK flat in the project Mass Metropolis at Chembur.

7. Complainant is no more interested in purchasing the flat but wants her money back. She wants money for treatment of her mother. However, u/s 18 of RERA, an allottee can claim refund, if the promoter fails to deliver possession as per agreement. Here there is no certainty as to which flat was booked by the complainant and what was the price that was agreed and what was the date for delivery of possession. Complainant simply seeks refund of token money paid by her. I am therefore, of the opinion that she is no more an allottee and she has chosen wrong forum to seek redressal of her grievance. I therefore, answer point no. 1 and 2 in the negative and proceed to pass following order:

### ORDER

1. Complaint stands dismissed.
2. No Order as to costs.

Mumbai

Date : 18.11.2019

*MP*  
*30/11/2019*  
**(Madhav Kulkarni)**  
**Adjudicating Officer**  
**MahaRERA**