

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
MUMBAI

Complaint No. CC006000000192903

Mr. Sidharth Shah

..Complainant

Versus

M/s. RRD Heights & Builders Pvt. Ltd.

..Respondent

MahaRERA Project Registration No. P51800005901

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

Mr. Parthasarathy appeared for the complainant.

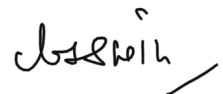
CA Sumit Kapure appeared for the respondent.

ORDER

(11th January 2021)

(Through Video Conferencing)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent to execute the registered agreement for sale under the provisions of section 13 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 'RERA') in respect of booking of a 2 BHK flat, admeasuring 1039 sq. ft., in the respondent's project known as "The Elite" bearing MahaRERA Registration No.P51800005901at Mulund West.
2. The complaint is heard finally on 04-01-2021 as per the Standard Operating Procedure dated 12th June 2020 issued by MahaRERA for hearing of complaints through Video Conferencing. Both the parties have been issued prior intimation of the hearing and they were also informed to file their written submissions, if any. Accordingly, both the parties appeared and made their submissions.
3. During the hearing, it was noticed by the MahaRERA that the complainant is seeking relief under section 13 of the RERA. However, no allotment letter or any valid proof of booking of the said flat has been produced on record of MahaRERA by the complainant. Hence the



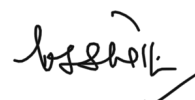
complainant sought time to file the same on record of MahaRERA which was granted. The respondent was also directed to file its reply to the said submissions made by the complainant.

4. Pursuant to the direction of the MahaRERA the complainant has uploaded certain documents on record of MahaRERA such as copies of IOA, Commencement certificate issued in favour of the respondent, Title certificate, application filed by the respondent for project registration to MahaRERA, draft agreement for sale, email communications made with the respondent, bank stamen showing the payment made to the respondent. Etc. The respondent also uploaded its reply on record of MahaRERA on 8-1-2021. The same is taken on record.
5. It is the case of the complainant that, he has purchased the said flat in the respondent's project for a total consideration of Rs. 1,50,00,000/-. The complainant has paid an amount of Rs. 50,00,000/- as booking amount vide a cheque dated. 17/12/2018. Thereafter the respondent has sent a draft agreement for sale to the complainant stating the date of possession as 31st December 2022. However, till date the respondent has failed to complete its obligation by executing and registering the agreement for sale even after several promises. The complainant further stated that, he has paid around 33% towards the said consideration of the flat. Further, the date of possession as mentioned in the MahaRERA website is now revised as 30/06/2023. Hence, the complainant has filed the present complaint seeking relief under section 13 of the RERA.
6. The respondent on the other hand resisted the claim of the complainant by filing written reply on record of MahaRERA stating that



there is no relation ship as promoter and allottee between the parties. Hence no relief can be granted in favour of the complainant as an allottee as defined under section 2(d) of the RERA. Further the complainant has made financial investment in the project on 17-12-2018 and same is accepted by the respondent. The complainant wanted to covert the said investment into booking and sought for the draft the agreement for sale. Hence, it has without making any commitment it has shared the same. It has further stated that it has never allotted any flat to the complainant as alleged by him. However it has shown its willingness to refund the said amount paid by the complainant within reasonable time.


7. The MahaRERA has examined the submissions made by both the parties and also perused the record. In the present case, by fling this complaint the complainant is seeking relief under section 13 of the RERA for execution of registered agreement for sale with respect to a flat allegedly booked by the complainant in the respondent's project. The respondent has denied the said booking of the flat by the complainant. However, it has not denied the payment made by the complainant. The respondent has also shared the draft agreement for sale with the complainant after commencement of the RERA. Admittedly, the complainant has paid more than 10% amount to the respondent after commencement of RERA and the respondent after accepting the money has not executed the agreement for sale in favour of the complainant. For such act of commission/omission on the part of the respondent, the complainant can not made to suffer only due to the fact that the complainant is not holding any allotment letter. Moreover, the provisions of section 13 of the RERA don't allow the acceptance of a sum more than ten percent of the cost of the apartment without first entering into the agreement for sale. Hence,



the MahaRERA finds substance, in the claim of the complainant sought under section 13 of the RERA.

8. In the view of these facts and circumstances of this case, the MahaRERA directs the respondent to execute the registered agreement for sale with respect to flat booked by the complainant within a period of one month from the date of this order. Failing which the money paid by the complainant be refunded.

9. With these directions, the complaint stands disposed of.


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

