

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, MUMBAI  
COMPLAINT No. CC00600000044224

Mr. Shyam N. Pandey .....Complainant

Versus

M/s. Siddhivinayak Homes Pvt. Ltd. .... Respondent

MahaRERA Registration No. P51900009486

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

Adv. S.B. Sharma appeared for the complainant.

Adv. Ritesh Jain appeared for the respondent.

Order

(20<sup>th</sup> August, 2018)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent to give possession of a flat No. 504 on 5<sup>th</sup> floor of the Building Florentia at Kanungo, Garden City at Mira Road, booked by him, at the agreed cost of Rs. 66,10,500/- immediately along with free parking. He has also requested to issue Cash receipt for Rs. 8,13,600/- and compensation for mental harassment. The project is registered with MahaRERA vide No. P51900009486.
2. The matter was heard on several occasions when Adv. S.B. Sharma appeared for the complainant and Advocate Ritesh Jain appeared for the respondent. During the hearings, the complainant argued that he booked the said flat for a total consideration amount of Rs. 66,10,500/- with parking for one vehicle. Accordingly, he has already paid an amount of Rs. 15,53,976/- as per schedule. But the promoter is not willing to

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register the said flat without payment of Rs. 5,25,000/- for stilt parking and Rs. 3,00,000/- for open parking. Further, he wants the parking charge by cash. The respondent has also not yet issued receipt for an amount of Rs. 8,13,600/- paid by him by cash to the respondent through the estate agent of the respondent, Mr. K.B. Mishra in whose favour the cheques were issued by the complainant for the said amount. Hence the present complaint has been filed.

3. The respondent disputed the claim of the complainant and also regarding the payment. He stated that he has issued receipts for all the payment made by cheques and denied about the cash payment. The respondent further argued that Mr. K.B. Mishra to whom the complainant has made payment is not the estate agent appointed by him and he has taken booking from the complainant directly. In addition to this, the respondent argued that he is ready to execute the registered agreement for sale with the complainant subject to payment of dues.
4. This Authority has examined the rival submissions made by both the parties. In the present case, by filing this complaint, the complainant is seeking possession of the flat from the respondent. Now there is no registered agreement for sale executed between the complainant and the respondent. The complainant alleged that he has made some payment by cash to the respondent through the estate agent one Mr. K.B. Mishra. To verify the actual facts, the MahaRERA issued summons to Mr. K.B. Mishra and called for a hearing held on 31-07-2018. Accordingly, he appeared before MahaRERA and stated that he had not received any payment from the complainant for booking of the said flat. However, the complainant argued that he has issued blank cheques to Mr. K.B. Mishra and he cheated him. The said issue seems to be criminal in nature and the complainant is at liberty to agitate the same before the appropriate

forum. The MahaRERA has no jurisdiction to try and entertain such criminal issues of cheating. Hence, this Authority cannot direct the respondent to issue receipt for cash payment done by the complainant.

5. In respect of possession of the flat, the MahaRERA feels that the complainant has made more than 10% amount to the respondent by cheque and till date no registered agreement for sale has been executed between them. As per the provisions of section 13 of the RERA Act, 2016, the respondent is liable to execute the registered agreement for sale with the complainant. Therefore, this Authority directs the respondent to execute the registered agreement for sale with the complainant within a period of 30 days from the date of payment of all dues and on payment of necessary stamp duty and registration charges by the complainant.
6. However, in the present case, the MahaRERA observed that as per the provision of the RERA Act, the respondent promoter can not ~~sell~~ open parking to the allottees. The open parking comes within the definition of open spaces and the same is required to be handed over to the society on completion of the project.
7. With these directions, the complaint stands disposed of.



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