

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

COMPLAINT NO: CC0060000000001337

Kirit Soni ... Complainant.

Versus

Ravi Developments. ... Respondents.
(Gaurav Aster)

MahaRERA Regn: P51700011796

Coram: Shri B.D. Kapadnis,
Member & Adjudicating Officer.

Appearance:

Complainant: In person.

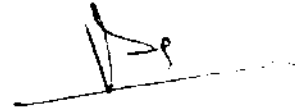
Respondents: Jinam Shah, AR.

FINAL ORDER

11th September 2018.

The complaint has been disposed off by the Hon'ble Member -1 of MahaRERA on 09.03.2018 on the basis of Affidavit filed by the Respondent dated 26.02.2018 in which the respondent showed its willingness to complete the works as under:

- i) to make an application to the Municipal Authority for issuance of water connection to the complainant building within one month from the date of disposal of the present complaint;



- ii) to open a separate bank account in the name of complainants' proposed society and shall endeavour to form and register a co-operative housing society of flat owners within a period of one month from the date of disposal of complaint;
- iii) to put up compound wall/patra fencing surrounding the complainant's building within one month from the date of disposal of present complaint; and
- iv) to provide an additional access to the complainant and other members from back side of the property within approximately three months from the disposal of the present complaint.

2. Relying on the respondent's undertaking this Authority directed the respondent to adhere to commitments mentioned in the Affidavit and to pursue the matter before Hon'ble High Court for the proposal of obtaining occupation certificate.

3. The complainant has moved the Authority again to impose penalty on the respondent under Section 63 of RERA for non-compliance of the directions of the Authority. Therefore, the matter has been heard by the learned Member and he is satisfied that the society of the allottees has been formed and the Bank Account in its name has been opened. However, the directions regard the water connection, construction of compound wall and access road have not been complied with. Therefore, he has granted further

V-s

period on one month and also warned the respondent that in case of non-compliance of the directions stringent action will be taken against it. The matter has been referred to me being the Adjudicating Officer for the purpose of awarding compensation under Section 18(3) of RERA Act by the order passed on 26.06.2018.

4. The respondent has filed the reply to contend that all the issues have been sorted out in the execution proceedings. The respondent has not violated any provisions of RERA. There is misjoinder of causes of action as the complainant seeks compensation and penalty also. The complainant has suppressed the fact that the complainant took fit out possession knowing it well that the common facilities and amenities were yet to be provided. So far as the non-compliance of the directions are concerned, the respondent submits as under:

1) **Water connection:** The respondent is required to pay Rs. 4,42,983/- towards taxes and it is making arrangement for its payment. Due to non-payment of the taxes, the Municipal Corporation has not issued the water connection though he applied for it on 09.07.2018.

2) **Construction of compound wall:** In this context, the respondent contends that the compound wall is proportionately completed to the extent of 50%. However, there are electric cables passing through the portion where the compound wall is to be constructed. Hence, it has moved Reliance Energy for shifting the electric lines. The respondent could not complete the compound wall because the layout of CTS No. 27/8 and 27/9 is a part of larger layout



being developed by the respondent. The construction of the compound wall surrounding the subject building will subdivide the layout which is not permissible and therefore, necessary directions from the Municipal Corporation are sought.

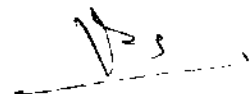
3) **Access road:** MahaRERA has granted 4 to 5 months' time for providing additional access road which is related to the entire layout and therefore, it seeks further time.

5. I have heard the parties and perused the documents.

6. The limited question before me is, whether the complainant is entitled to get compensation under Section 18(3) of RERA in respect of non-observance of directions given by the Authority.

7. The orders passed by the Authority on 09.03.2018 and 26.06.2018 clearly demonstrate that the respondent itself gave undertaking by filing the affidavit dated 26.02.2018 to complete the incomplete work referred to in the order. Not only that, by order dated 26.06.2018, the Authority has granted one months' time for compliance of its order. Even after lapse of one months' time those directions have not been complied with.

8. The Writ Petition No. 800 of 2018 has already been withdrawn by the respondents. The respondent has not paid the municipal taxes and therefore, water connection is not connected. The additional access road is mentioned in the sanctioned plan; the respondent has also agreed to erect the compound wall. It is for the respondent to take necessary permissions from the concerned authorities and to complete the work within the time undertaken by it. Therefore, there

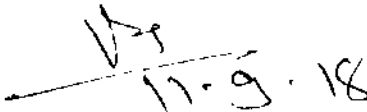


is no other option but to hold that the respondent has failed to comply with the directions of the Authority and it wants to put up lame excuses which cannot be accepted. Hence, I find that the complainant is entitled to get compensation under Section 18(3) of RERA.

9. In the facts and circumstances of the case, since the complainant has filed this complaint in her individual capacity, I find that she is entitled to get Rs. 10,000/- per month towards the compensation from 27.07.2018 till the directions are complied with. The complainant is entitled to get Rs. 10,000/- towards the cost of her application. She is at liberty to move the Authority after every three months if the directions have not been complied with or compensation is not paid. Similarly, the respondent is also at liberty to move the Authority for cancelling this order on compliance of the directions.

Mumbai.

Date: 11.09.2018.


(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.