

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

COMPLAINT NO: CC0060000000023479

Arjumand Faruque Shaikh

... Complainant.

Versus

Ravi Development
(Gaurav Woods II)

... Respondents.

MahaRERA Regn: P51800011407.

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

Appearance:

Complainant: In person.

Respondents: Absent, exparte.

FINAL ORDER

26th June 2018.

By this complaint the complainant seeks the refund of his amount paid to the respondents in the context of purchasing flat no. 1407, A-building in respondents' registered project Gaurav Woods, Phase-II situated at Navghar, District Thane. Respondents agreed to deliver its possession in December 2015. The booked flat is in A-wing but Mira-Bhyander Municipal Corporation did not give sanction/approval for constructing A-wing. Therefore, the respondents made false representation regarding the construction of the booked flat and its possession and made him to deposit money. Hence, the complainant withdraws from the proposed project and seeks refund of his amount with interest and compensation as he sustained monetary loss. The payment




shown in the payment statement marked Ext.'A' has not been disputed by the respondents.

2. Though the respondents have appeared in this case through their representative Ms. Jinam K. Shah, she remains absent for recording plea even after the knowledge of the fact that the case is kept today for recording plea. Hence the matter proceeds *exparte* against the respondents.

3. Heard the complainant and perused the papers. It is seen from the registered agreement for sale that the complainant booked the flat and the respondents agreed to hand over its possession by December 2015. However, they have failed to deliver the possession till the date of the complaint. Hence under Section 18 of Real Estate (Regulation and Development) Act 2016, the complainant is entitled to withdraw from the project and get refund of his amount with interest at prescribed rate. It is 2% above the SBI's highest MCLR which is currently 8.5% from the date of payment of the amount till its refund.

4. The complainant invites my attention to the modified commencement certificate dated 07.07.2011 issued by Mira-Bhyender Municipal Corporation which clearly shows that there is no mention of A-wing in it. Hence, it becomes clear that the respondents have not received any commencement certificate for constructing A-wing of their project. Therefore, it appears that they have made the false statement regarding completion of the booked flat and handing over its possession by December 2015. So in view of this fact, the complainant is entitled to get back his amount with interest and compensation also under Section 12 of RERA.

5. The complainant is a retired Government Servant. He submits that on his retirement he booked the flat in 2010. Now the rates of the property have increased. He is undergoing mental stress and trauma because of the respondents' failure to construct the flat booked by him and monetary loss

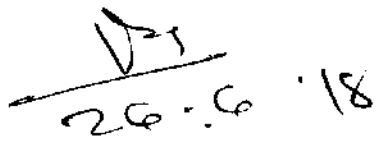


of money as he deposited Rs.22,81,587/- up till now right from the year 2010. In the facts and circumstances of the case, I find that he has entitled to get Rs.1,00,000/- towards compensation and Rs. 20,000/- towards the cost of the complaint also. Hence, the order.

ORDER

1. The respondents shall refund the amount mentioned in the payment statement marked Exh. 'A' with simple interest at the rate of 10.5% per annum from the date of their payment mentioned in the payment statement marked Exh."A" till the refund.
2. The Exh. 'A' shall form the part of the order.
3. The respondents shall pay the complainant Rs. 1,00,000/- compensation and Rs. 20,000/- towards the cost of the complaint.
4. The charge of the aforesaid amount shall be on the registered project of the respondents till the satisfaction of the complainant's claim.
5. Complainant shall execute the deed of cancellation of agreement for sale on satisfaction of his claim at respondent's cost.

Mumbai.
Date: 26.06.2018.


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

Exp - A.1
Member

Complaint No. :

CC00600000023479

Complainant Name: Arjumand shaikh

DATE	CHEQUE NO.	AMOUNT	PURPOSE
13/2/2010	299736 HDFC	1 lakhs	Booking Amount
8/2/2011	299737 HDFC	2 lakhs	Piling
21/4/2011	299739 HDFC	11,99,490	Advance installment
21/8/2012	595071 HDFC	1,87,431	1 and 2
13/10/2012	595074 HDFC	1,87,431	3 and 4
2/1/2013	595075 HDFC	93,716	5
3/4/2013	595078 HDFC	93,716	6
24/5/2013	595080 HDFC	93,716	7
16/9/2013	595086 HDFC	1,26,117	8
18/9/2013	595088 HDFC	1,26,117	CAR PARKING
		TOTAL AMOUNT	
		22,81,587	

Complainant sign and name: Arjumand Shaikh

Shaikh
26/6/2018

Ad. A-2
Mendon

LIST OF SERVICE TAX

**LIST OF SERVICE TAX.Complaint No. :
CC00600000023479**

Complainant Name: Arjumand shaikh

DATE	CHEQUE NO./ BANK	AMOUNT
21/8/2012	595072 HDFC	47,289
15/10/2010	595073 HDFC	24,755
22/12/2012	595076 HDFC	2,896
3/4/2013	595079 HDFC	2,896
24/5/2013	595081 HDFC	2,896
20/6/2013	595082 HDFC	50,480
17/9/2013	595087 HDFC	3,897
17/7/2017	PAID TO SUB- REGISTRAR (KAPOL BANK)	3,02,840 (STAMP DUTY)
17/7/2017	PAID TO SUB- REGISTRAR (KAPOL BANK)	30,000 (REGISTRATION FEES)
		TOTAL AMOUNT
		4,38,049

Complainant's Name and Sign : Arjumand Shaikh

Shaikh
26/6/2018

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Arjumand shaikh

---Complainants.

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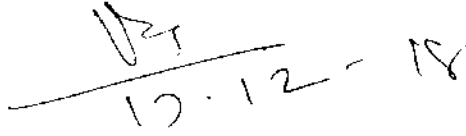
MahaRERA Regn: P51800011407.

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

**ORDER ON THE RECOVERY APPLICATION FILED IN COMPLAINT NO.
CC006000000023479.**

The complainants report the non-compliance of the order dated 7th September 2018. The respondents have failed to appear despite the notice. Therefore, issue warrant under Section 40(1) of RERA against the respondents.

Mumbai.
Date: 12.12.2018.


12.12.18
(B.D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.