

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

Complaint No. CC006000000079505

Isabelle De Joss.

..... Complainant

Versus

1. Salsette Catholic CHS Ltd
 2. Transcon Properties Pvt Ltd
 3. Kenwood Developer Pvt Ltd
- Project Registration No. P51800001413

..... Respondents

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

Adv. Subhash P. Nalavade appeared for the complainant.

Adv. Ranjeev Carvalho instructed by Adv. Raju Jain appeared for the respondent No. 1 society.

Adv. Vikram Garewal instructed by IC Legal appeared for the respondent No. 2.

ORDER

(26th August, 2019)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent No. 1 society, to perform it's part of contract as per the deed of conveyance and also to direct the respondents to handover developed plot to the complainant as agreed in the conveyance deed dated 8th January, 1963 executed between the complainant and the respondent No.1 Society.
2. The matter was heard on several occasions and the same is heard finally today. During the hearings, all the parties appeared through their respective advocates and made their oral and written submissions. It is a case of the complainant that, he is the owner of the plot of land admeasuring 19 acres and 20 gunthas at village Valanai, Malad, Mumbai. The complainant executed conveyance deed with the respondent No.1 society on 8/1/1963, whereby the plot of land admeasuring 77,643.50 sq. yards was conveyed for



a total consideration amount of Rs. 2,32,829/-. Out of this, the respondent No.1 Society has paid an amount of Rs. 77,643/- and the balance amount was agreed to be paid or adjusted after formation of the scheme as per clause No.4 of the conveyance deed dated 08/01/1963. The complainant further argued that, in the year 2007, the respondent No.1 Society sold the land to respondent No. 2 developer by way of a registered conveyance deed ignoring the rights of the complainant being the owner of the land. However, conveyance deed executed between the respondent No.1 and the respondent No. 2, the rights of the complainants was mentioned and it was clarified that all the liabilities of the respondent No.1-Society is transferred to the respondent No.2-Promoter and accordingly, the respondent No.2-Promoter agreed to settle the claim of the complainant. However, till date the complainant has not received developed area in lieu of the conveyance deed dated 08/01/1963. Hence, the present complaint has been filed.

3. The respondent No.1 has filed a written submission on record and disputed the claim of the complainant on the ground that, the relief sought by the complainant cannot be entertained by MahaRERA since it is beyond the scope of the RERA Act. The respondent No. 1-society is also argued that, the claim of the complainant is time barred since he is seeking specific performance of the conveyance deed dated 08/01/1963 executed between the complainant and the respondent No.1-society and hence be barred by law of limitation. The respondent No.1- society further argued that, as per the conveyance deed executed on 08/01/1963, the complainant was given an option either to accept the balance consideration in cash or adjust the same towards plot of land in the developed scheme which was then to be formulated by the Opponent No.1-Society. As per the said clause, the respondent No.1- society has already paid consideration amount to the complainant being a co-owner and hence there is no question of giving developed area to the complainant.

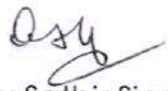


4. The respondent No.1 further argued that, the complainant is seeking specific performance of one of the terms of conveyance deed executed on the 8th January, 1963 between the complainant and the respondent No.1 Society and therefore, the MahaRERA has no jurisdiction to grant any relief. The respondent No.1 further submits that, the complainant had approached the co-operative court for same cause of action and the said dispute bearing 146 of 1996 which was dismissed on 10/04/1996. The respondent No.1- society, therefore, requested for dismissal of the complaint.
5. The respondent No. 2-promoter also disputed the claims of the complainant and argued that, the present complaint is not maintainable before the MahaRERA and hence the same is liable to be dismissed. The respondent No.2 further argued that, there is no privity of contract between the complainant and the respondent No. 2- promoter and no consideration has been paid or payable by the complainant to the Respondent No.2 and therefore, the complainant cannot be an aggrieved person as specified under Section-31 of the RERA Act.
6. The respondent No. 2 further argued that, the complainant has no locus standy to file the complaint since he is neither an allottee nor promoter / owner of the project and hence, he cannot be aggrieved party in the complaint. The respondent No. 2-promoter further argued that, the complainant is not alleged any violations of provisions of the RERA on the respondent no.2. Therefore, the MahaRERA has no jurisdiction to decide this matter.
7. The MahaRERA has examined the arguments advanced by all the parties as well as the records. In the present case, the complainant who is claiming co-owner of the plot of land under the MahaRERA registered project bearing No. P51800001413 registered by the respondent No.2. The complainant is seeking relief against the respondent No.1 society. In lieu of the registered conveyance deed executed in the 8th January, 1963 between the complainant and the respondent No.1-society whereby the said property was

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conveyed to respondent No. 1 society with certain terms and conditions. The complainant alleged that he has not received the consideration amount mentioned in the conveyance deed executed between the complainant and the respondent No. 1. Therefore, the complainant sought specific performance of the conveyance deed registered on 08/01/1963 between the complainant and the respondent No.1 Society

8. In this regard, the MahaRERA feels that, there is no provision in the RERA to grant such relief. Further, Record of rights pertaining to the said land under the MahaRERA registered project bearing No. P51800001413 also got transferred in the name of respondent No.2 by virtue of registered conveyance deed between the respondent No. 1-society and the respondent No. 2-promoter. The complainant till date has not approached any civil court of law for redressal of her grievance with regard to her entitlement under the said Deed of Conveyance dated 8/1/1963. Moreover, the PRC is unchallenged. The complainant has not produced any court order establishing the complainant's right in respect of plot of land under the said project having claim as owner. Hence, MahaRERA cannot take into consideration the rights of the complainants in respect of the claim of the complainant. Further, the MahaRERA is also of the view that, since the complainant seeking specific performance of the terms and conditions of the registered conveyance deed dated 08/01/1963, the MahaRERA has no jurisdiction to decide such a civil matter. Moreover, the complainant has not specified under which provision of the RERA Act he is seeking such a relief.
9. In the light of these facts, the complaint filed by the complainant stands dismissed for want of merits and also jurisdiction.


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