

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

Complaint No. CC006000000194386

Suresh Kishinmal Dodeja

.... Complainant

Versus

Puranik Goup/ Sai Pushp Enterprises/ Shailesh Puranik

....

Respondents

MahaRERA Project Registration No. P51700000618

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

The complainant appeared in person.

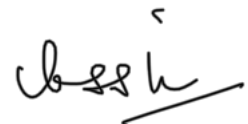
Ld. Adv. Mohit Bhansali a/w. Ld. Adv. Pushpa Kanavade appeared for the respondent.

ORDER

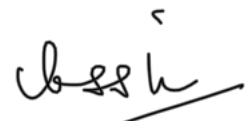
(Monday, 28th February 2022)

(Through Video Conferencing)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent to refund the amount paid along with interest and compensation under the provisions of section 18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of the booking of a flat bearing unit no. 1503 in building B Saki in the respondent's registered project known as "**Tokyo Bay Phase - 1**" bearing MahaRERA registration No. **P51700000618** situated at Thane.

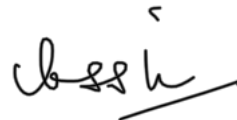


2. This complaint was heard on 20-10-2020 as per the Standard Operating Procedure dated 12/06/2020 issued by MahaRERA for hearing of complaints through Video Conferencing. Both the parties have been issued prior intimation of this hearing and they were also informed to file their written submissions if any. Accordingly, both the parties appeared for the said hearing and showed their willingness to settle the matter amicably through MahaRERA Conciliation Forum. Hence, on request of the parties this complaint was referred to MahaRERA Conciliation Forum to further necessary action.
3. However, despite meeting, the parties could not arrive at any mutually agreeable terms. Hence, this complaint was again transferred to MahaRERA on 22-09-2021, with a remarks "conciliation failed".
4. Accordingly, this complaint was scheduled for hearing before MahaRERA on 2-12-2021, when both the parties appeared. During the course of hearing the complainant made his submissions, however the Id. advocate for the respondent sought time to file reply on record of MahaRERA. Hence, on request of the respondent one-week time was granted to the respondent to file its reply on record of MahaRERA. With the said directions, the hearing was concluded, and the order was reserved.
5. Despite specific direction given to the respondent, it has failed to file its reply. Hence, the MahaRERA perused the available record. However, it was not possible to decide the matter expeditiously since the office

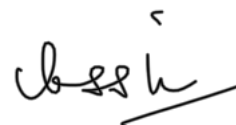


work was severely impacted by Covid 19 pandemic, heavy work load of subordinates and shortage of staff.

6. It is the case of the complainant that he booked the said flat in the respondent's project on 13-01-2020 by paying token amount of Rs. 1,00,000/-. Thereafter as per the instruction of the respondent he paid the Stamp Duty challan on 11-02-2020. However, on 21-02-2020, the respondent informed him that it is unable to obtain the mortgage NOC from the lender due to rate not being approved. Thereafter there were several communications done with the respondent for 5 months and on 22-07-2020, the respondent approached him with the proposal that it can go ahead with the earlier booking. On such representations, he started preparing fresh for bank approvals etc. On 17-08-2020, he received reminder from respondent to complete the payment due along with interest. The said demand of interest was not applicable to him and hence he objected for the same as the said timeline given by the respondent was not applicable to him since he has not paid stamp duty and registration process physically. However, on 18-09-2020, the respondent sent termination letter for cancelling the said allotment done in his favour and thereby it has forfeited the token amount paid by him. The complainant mainly contended that there is no default on his part as he was perusing for fresh loan as per the revised request made by the respondent. Hence, he filed this complaint seeking directions from MahaRERA to the respondent to continue the said booking without charging any interest or to refund the entire money along with interest and compensation of Rs. 10,00,000/- for mental agony.



7. In the present case, the MahaRERA has observed that the complainant has filed this online complaint before MahaRERA on 12-10-2020. However, till date the respondent has not bothered to file its reply to this complaint, though the complaint is visible to the respondent in its project. Even after issuance of the SOP dated 12-06-2020, the respondent was liable to upload its reply in digital form in this complaint. However, till date the respondent has not complied with the said direction. Furthermore, though the respondent appeared and sought time to file reply, and although the time was granted to it to file its reply, it has failed and neglected to file the same within the stipulated timeline granted to it. It shows that the respondent is not willing to contest this complaint. Hence, the MahaRERA has no other alternative but to proceed with the matter ex-parte against the respondent on merits.
8. The MahaRERA has examined the arguments advanced by the complainant. The complainant being an allottee of this project filed this complaint seeking execution of the agreement for sale as per the booking done on 24-1-2020 without any interest or refund to refund the entire amount paid by him along with interest and compensation of Rs. 10,00,000/- towards mental agony.
9. There is booking letter dated 24-01-2020 issued by the respondent for booking of the said flat and the complainant has made payment of Rs. 1,00,000/- towards the said booking. The stamp duty and registration charges of Rs. 4.79,200/- and Rs. 30,000/- has also been paid by the complainant on 11-02-2020. Thereafter on 21-02-2020, the respondent



sent an email dated 21-02-2020 which states as under:

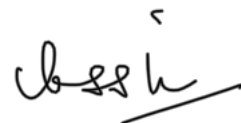
“Dear Mr. Dodeja, Greetings from Puraniks!

This is in respect to your booked flat in Tokyo Bay. We are unable to obtain the Mortgage NOC from the lender due to rate not being approved. We tried to resolve this matter with the highest hierarchy possible but this is a lender issue and the builder has no say into it. Hence as communicated to you we shall be raising cancellation against your booking and refund the payments made by you. We will inform you once the refund cheque is ready. We regret any inconvenience caused.

Please feel free to call me in case of any queries.

10. The aforesaid email sent by the respondent shows that initially the said booking was cancelled at the end of the respondent and due to difficulties at the level of the respondent. Hence, it cannot blame the complainant if any delay is arisen in payment. The complainant has produced several documents on record of MahaRERA to show that he was pursuing the bank for a fresh loan. It shows that the complainant is willing to continue in the project.

11. The respondent has not filed its reply refuting the contentions raised by the complainant and hence all these submissions/ contentions made by the complainant remained unchallenged. In this case the complainant is ready and willing to execute the agreement for sale as per the booking dated 24-01-2020 for which he has already made payment of Rs. 5,09,200/-. Hence, the MahaRERA is of the view that the alleged



cancellation done by the respondent on 18-09-2020 is not proper.

12. Considering these facts, the MahaRERA directs the respondent to execute the registered agreement for sale with the complainant without charging any delayed payment interest within a period of 30 days, failing which the entire money paid by the complainant towards the said booking be refunded with interest as prescribed under RERA.

13. With the above directions, the complaint stands disposed of.

14. The certified copy of this order will be digitally signed by the concerned legal assistant of the MahaRERA. It is permitted to forward the parties a copy of this order by e-mail.



A handwritten signature in black ink, appearing to read "Dr. Vijay Satbir Singh", is written over the right side of the MahaRERA seal.

(Dr. Vijay Satbir Singh)

Member – 1/MahaRERA