

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

**COMPLAINT No: CC006000000056806**

Ms. Jyoti Yogesh Soni

.....Complainant

**Versus**

Mr. Mayur Shah & 7 Ors

M/s. Marathon Realty Pvt Ltd.

,..... Respondents

MahaRERA Registration No. P51800002662

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

Adv. Sipahimalani represented the complainant.

Adv. Sana Khan i/b M/s. Dhaval Vussonji & Associates  
represented the respondents.

**ORDER**

(2<sup>nd</sup> January, 2020)

1. The complainant claiming to be an allottee has filed this complaint seeking directions from MahaRERA that the respondents are to be held responsible for violation of section-14(2) of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "RERA"). Since the respondents have suppressed and manipulated the mandatory information required to be disclosed on the official website of this authority, MahaRERA to cancel the registration issued in favour of the respondents bearing No. P51800002662 in respect of the project known as "**Monte Carlo**" at Mulund (West), Mumbai, under section - 7 of the RERA. The complainant further sought compensation of Rs. 20 lakh towards the mental agony etc.,
2. This complaint was heard on several occasions. During the hearings, it was brought to the notice of MahaRERA that the matter is pending before the National Consumer Forum and no final order has been passed yet. This

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complaint was heard on 28-08-2019, when both the parties appeared and made their respective submissions. However, subsequently, the complainant through her advocate made, representation in writing on record of MahaRERA making various grievances and hence due to administrative reasons this complaint was transferred to the Ld. Member-2, MahaRERA for taking appropriate decision. Accordingly, the hearing was fixed before the Ld. Member-2, MahaRERA on 26-12-2019, when both the parties appeared and argued the matter. After hearing the arguments of the complainant, the Ld.Member-2 vide interim order dated 26-12-2019 has again sent back this matter to the MahaRERA.

3. It is the case of the complainant that the respondents launched a residential complex of five buildings and she has purchased a flat in one of the buildings, known as '**Monte Vista**'. At that time, the respondents have represented in the brochures, models, website, etc. that parking spaces for all vehicles shall be in basements and a big Recreation Ground (R.G.) shall be provided on ground floor in front of the building. However, after obtaining occupation certificate for the said building, the respondents unilaterally revised the plan and proposed to handover basement to BMC for public parking lot and also started construction of an additional structure on the plot meant for RG. However, no action was taken by the respondents on request of the allottees. Therefore, the registered Association of allottees have filed a complaint bearing No. CC/15/207 before the State Consumer Disputes Redressal Commission, Mumbai.
4. In the said complaint, the construction of additional structure was stayed by an Interim order and the said complaint was finally allowed on 10.02.2016. In the said order, the Commission had directed the respondents to provide basements and RG to flat purchasers as per disclosure. But, the respondents challenged the said order by filling appeal before the National

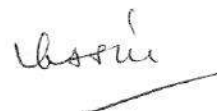


Consumer Disputes Redressal Commission (NCDRC) and the same is pending. The respondents in complete contravention and utter violation of the above judgment and order dtd.10/02/2016 passed by the State Consumer Disputes Redressal Commission, Mumbai, has uploaded plan and specifications on the MahaRERA website, thereby illegally displaying basements purported to be handed over to BMC and G+3 storied structure on the open RG area. The fact of the case is that the open land adjacent to RG has already been acquired by B.E.S.T. undertaking after dismissal of the Special Leave Petition filed by the respondents before the Hon'ble Supreme Court of India and the same is mischievously suppressed by the respondents. In addition to this, the complainant stated that the present complaint is filed on behalf of the "Monte Vista" which is not registered with MahaRERA. However, both the projects/buildings, "Monte Vista" and "Monte Carlos" are having a single layout with common amenities, basement and recreation ground etc., Hence the present complaint has been filed.

5. The respondents, on the other hand, have disputed the claim of the complainant and argued that the advocate, who appeared for the complainant cannot appear in this matter due to conflict of interest as he is one of the allottees in the project known as "**Monte Vista**" and who is a defaulter in payment. The respondents further argued that there are two phases having two different projects viz "Monte Vista" and "Monte Carlos". The project "Monte Vista" has been completed and occupancy certificate has already been obtained for the same in the year 2014 itself and hence, the same was not registered with the MahaRERA being a completed project. However, after taking possession in the "Monte Vista", the allottees have formed an association and filed various complaints before the State Consumer Forum and criminal proceedings against them. Since the said litigation pertains to the completed project "Monte Vista", they

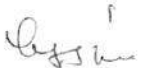
have not disclosed the same in the present project known as “Monte Carlos”. The respondents further argued that the complainant has fraudulently filed this complaint, though the complainant is not a part of the present project registered with MahaRERA and therefore, she is not entitled to seek any relief from MahaRERA and on this preliminary ground itself, the present complaint is liable to be dismissed.

6. The MahaRERA has examined the rival submissions made by both the parties, record as well as the relevant provisions of RERA. In the present case, the complainant is seeking relief for violation of section- 4 and 14(2) of RERA. Admittedly, the complainant is the allottee in the project known as “Monte Vista” which is not registered with MahaRERA. The respondents have, therefore, raised an objection for maintainability of the present complaint.
7. In this regard, the MahaRERA is of the view that the respondents have undertaken one project having 5 separate buildings. Out of this, the building known as “Monte Vista” wherein the complainant had booked a flat. The said building was completed prior to the commencement of RERA and therefore, the same is not registered with the MahaRERA. However, the building known as “Monte Carlos” is registered with MahaRERA, as a separate project, in which the present complaint is filed. The complainant is mainly aggrieved due to non-disclosure of pending litigation on the MahaRERA website by the respondents regarding this project. Both the buildings are situated in the same layout having common amenities, basement and recreation ground etc.,
8. In the present case, admittedly, the litigation is pending before the National Consumer Disputes Redressal Commission (NCDRC) and till date no final order has been passed by the National Consumer Disputes



Redressal Commission (NCDRC) in the appeal filed by the respondents. It is not clear in what way the said litigation are relevant to the project registered with MahaRERA. However, since the said litigations are pertaining to the same layout, the MahaRERA felt, it is just and proper that all pending litigations pertaining to the layout sanctioned by the competent authority are disclosed with MahaRERA website to enable the home buyers to exercise their informed choice.

9. The MahaRERA, therefore, directs the respondents to upload all the litigations pending before any court of law pertaining to his projects in the layout (e.g. "Monte Vista", "Monte Carlo" etc,) on MahaRERA website within a period of 15 days from the date of this order.
10. With regard to the relief sought by the complainant for violation of section-14(2) of the RERA, the MahaRERA feels that nothing has been brought on record by the complainant to substantiate her claim that the respondents have violated the said provision of the RERA, after the provisions of the RERA came into effect. Hence, the compensation sought by the complainant under section -14 of the RERA can not be considered. However, the complainant may approach the concerned competent authority for her redressal of grievances pertaining to changes in the layout plan.
11. With these directions the complaint stands disposed of.

  
(Dr. Vijay Satbir Singh)  
**Member-1, MahaRERA**