

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

**COMPLAINT NO. CC005000000001087**

Sachin Patil

.. Complainant

V/s

Manish Khandelwal

..Respondent

MahaRERA Regn.: **P51700001476**

Coram:

Hon'ble Shri B.D. Kapadnis

Member & Adjudicating Officer

20<sup>th</sup> November 2017.

**FINAL ORDER**

The Complainant has come for refund of booking amount on his own cancellation of booking.

2. The Complainant contends that he booked flat No. 403 in A-Wing of Marigold, Cosmos Enclave situated at Kasar, Vadavali, Thane (West) and paid the Respondent Rs. 14,62,295/-. He cancelled the booking on his own. The Respondent paid him Rs. 13,51,699/-, so the Complainant has been claiming the refund of the amount. I have heard both the parties.

3. The Respondent submits that the Complainant cancel the booking on his own and therefore, only the amount of service tax paid by him to the Government has not been returned because after GST he would not get the refund of the service tax. He further states that as per the agreement he was entitled to retain 5% of the total cost of the flat but he re-paid the booking amount. The Complainant wants the refund of full amount.

4. The parties have been heard on the point of maintainability of the complaint.

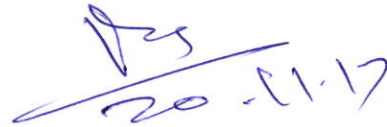
5. Here, the Complainant has cancelled the booking of his own. The Respondent has brought to my notice the Complainant's letter contending that because of financial difficulties he was cancelling the booking. In view of this situation I find that there is no expressed provision in the Real Estate (Regulation and Development) Act, 2016 under which this complaint can be entertained. So far as the refund of advances / payments are concerned, this Authority does not get jurisdiction to direct the Promoter to refund the same unless and until the case comes under one of the Sections such as Section 7,11(5), 12, 14, 18 or 19 of the Act. The Complainant's case does not come under any of the Sections of the Act. Hence, the Authority does not get the jurisdiction to entertain this complaint. The order passed by the Authority in Complaint No. CC006000000000430 will not come to the help of the Complainant because the legal aspects of the matter have not been dealt with in that case. Hence the order.

#### ORDER

The complaint is dismissed.

Mumbai:

Date: 20.11.2017.



( B.D. Kapadnis )

Member & Adjudicating Officer,  
MahaRERA, Mumbai.