

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

COMPLAINT NO: CC006000000054855

- 1) Robin Bhanwar Lal Agarwal
- 2) Mr. Bhanwar Lal Agarwal
- 3) Mrs. Seema Agarwal ... Complainant.

Versus

CCI Projects Pvt. Ltd. ... Respondent.  
MahaRERA Regn: P51800003067

**Coram:**

Hon'ble Shri Madhav Kulkarni.

**Appearance:**

Complainant: No.2 Present a/w

Advocate Adv. Vinod Talreja

Respondent: Absent

**Final Order**

22<sup>nd</sup> January 2019

1. Three complainants who had booked a flat with respondent / builder seek withdrawal from the project and seek refund of the amount paid with interest.
2. The complainants have alleged that they agreed to purchase Flat No. 31-D on 31<sup>st</sup> Floor in A wing in the Building known as Winter Green being constructed by Respondent No. 1 at CTS No. 165 at Village Magathane in Borivali Taluka in Mumbai Suburban District. The price agreed was Rs.2,28,53,745/-. Agreement was executed on 8<sup>th</sup> August 2014 and was registered. As per clause 17 of the agreement Respondent agreed to deliver possession of the flat on or before Feb. 2016. Till 18<sup>th</sup> March 2015 the complainant had paid Rs. 2,17,11,058/-, i.e. approximately 95% of the consideration amount. The complainants also paid Stamp Duty of Rs.11,43,000/- and Registration charges of Rs. 33,320/-, Service Tax of

22/1/19

Rs.7,84,686/-, VAT of Rs. 2,28,537/-. Complainants have also paid Rs. 11,236/- to HDFC as loan processing charges and Rs. 14,800/- as mortgage charges. Complainants have been paying EMIs comprising of principal and interest. Vide email dated 15<sup>th</sup> April 2015 the Promoter informed that there will be delay in delivering possession of the flat. Complainants vide email dated 8<sup>th</sup> May 2018 objected to the delay. The complainants sent various letters and emails expressing concern over inordinate delay in handing over possession but to no avail. Complainants have incurred expenses of Rs. 40,000/- as legal fees. Respondent No. 2 is a formal party. Since Respondent No. 1 failed to deliver possession as per agreement complainants have filed this complaint.

3. The complaint came before the Hon'ble Chairperson on 23<sup>rd</sup> July 2018 there upon it came to be transferred to Adjudicating Officer. On 10<sup>th</sup> Oct. 2018, one Anushri Ambekar with Authority from respondent appeared and her Plea came to be recorded. Though matter was adjourned to 31.11.18 for filing written explanation by respondent, in view of my next sitting at Mumbai after sitting at Pune was over, no written explanation was filed by respondent. None from the respondent was present even on 27<sup>th</sup> Nov. 2018 and therefore arguments of complainants were heard.

4. Following points arise for my determination. I have noted my findings against them for the reasons stated below.

<b>Points</b>	<b>Findings</b>
1. Has the respondent failed to deliver possession of the flat to the complainant without there being circumstances beyond his control?	Affirmative
2. Is the complainant entitled to the reliefs claimed?	Affirmative
3. What order?	As per final order

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## Reasons.

5. Point no. 1 & 2

Respondent No.1 in this case is CCI Projects Private Limited and Respondent No.2 Cable Corporation of India Ltd. The relationship between the respondents interse is not made clear in the complaint. Perhaps respondent No. 1 is a subsidiary company of respondent No.2. Copy of agreement dated 8<sup>th</sup> Aug. 2014 is placed by complainants on record. Flat No. 31-D in the Complex Rivali Park was agreed to be sold to the complainants for a consideration of Rs. 2,28,53,745/-. Both the respondents are party to this agreement. Payment of Rs.1,59,97,623/- was acknowledged in the agreement. As per Clause 17 date for delivering possession was Feb. 2016. Usual circumstances under which the period stood extended are mentioned.

6. There is the mail of the respondent dated 15<sup>th</sup> April 2015 at Exhibit D. It was informed that there were certain delays due to reasons beyond the control of the respondents. There were number of issues including changes in Development Control Rules which were not anticipated. It was promised that final handing over of possession would be made by March 2018. There is a vague statement in the mail about changes in Development Control Rules which affected the progress of the project. Respondent was required to come clean on this issue and to give the necessary details which actually affected the progress of the project. In its absence it will have to be held that the respondents failed to deliver possession of the flat to the complainants without there being circumstances beyond the control of the respondents. I therefore answer Point No.1 in the affirmative.

7. As per agreement date for delivering of possession was Feb. 2016. In his mail the respondent promised to deliver possession by March 2018.

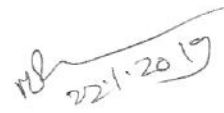
22.1.19

However, respondent failed to deliver possession till date. The complainants claim to have made a total payment of Rs. 2,39,00,601/-. The complainants have claimed that out of the agreed consideration of Rs. 2,58,53,745/- they have paid Rs. 2,17,11,058/- as on 18.03.2018 including Service Tax, Stamp Duty, Registration charges and other expenses total payment is Rs. 2,39,00,601/-. Further, Rs. 71,036/- are claimed towards loan processing fee, mortgage charges and litigation cost. Complainants would be entitled to claim these amounts except the Stamp Duty which can be refunded to the complainants as per Rules. I therefore answer Point No. 2 in the affirmative and proceed to pass following order.

### ORDER

- 1) The complainants are permitted to withdraw from the project
- 2) Respondent No.1 to pay Rs. 2,39,00,601/- except the Stamp Duty which can be refunded to complainants as per Rules + Rs. 71,036/- together with interest @ State Bank of India's MCLR i.e. 8.70% + 2% from the date of payments till actual realisation.
- 3) The complainant to execute cancellation Deed at the cost of the respondent.
- 4) The respondent to pay the above amounts within 30 days from the date of this order.

Mumbai.  
Date: 22.01.2019

  
(Madhav Kulkarni)  
Adjudicating Officer,  
MahaRERA