

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

Complaint No. CC005000000043745

Mr. Yashwant Rai

..Complainant

Vs

M/s. Shivtara Properties Pvt. Ltd.

..Respondent

MahaRERA Project Registration No. **P52100012400**

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

Adv. Avdhut Bidaye appeared for the complainant.

None appeared for the respondent.

ORDER

(11th December, 2020)

(Through Video Conferencing)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent to handover the possession of the flat and to pay interest for the delayed possession on the amount paid by them to the respondent under section 18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of booking of a flat in the respondent's registered project known as "Tara Athena" bearing MahaRERA registration No. **P52100012400** at Pune.
2. This complaint was heard finally today as per the Standard Operating Procedure dated 12/06/2020 issued by MahaRERA for hearing of complaints through video conferencing. The parties were issued prior intimation for the hearing and were also informed to submit their written submission if any. Accordingly, the complainant appeared and made his submissions through his advocate. However, the respondent though served with the the notice for the said hearing, neither appeared for the hearing nor filed any reply on record of MahaRERA as per the SOP dated 12-06-2020 issued by the MahaRERA. Hence the MahaRERA heard the arguments of the complainant and also perused the record.

Deep with

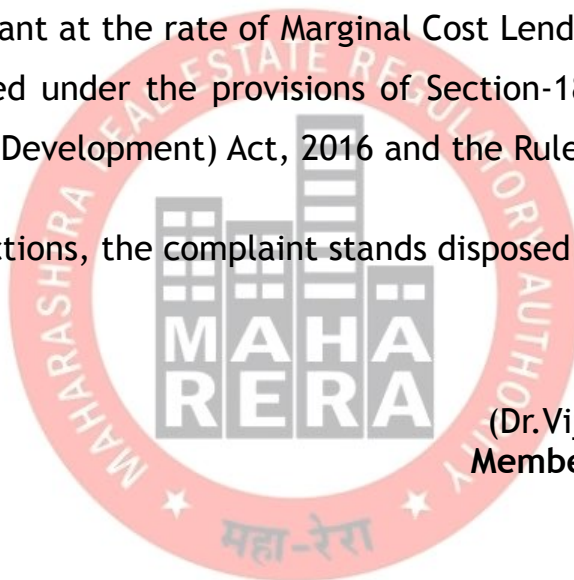
3. It is the case of the complainant that he has booked the said flat in the respondent's project by executing the registered agreement for sale dated 27-05-2015. The said flat was booked for total consideration amount of Rs. 24,53,100/- out of which till date he has paid an amount of Rs. 20,85,135/- to the respondent. According to the said agreement for sale, the respondent has agreed to handover possession of the said flat to him within a period of 2 years from the date of execution of the said agreement for sale. However, till date the possession has not been handed over to him. Hence the complainant has filed this complaint seeking possession of the flat along with interest for the delayed possession under section 18 of the RERA.

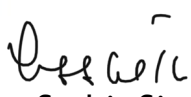
4. In the present case, the MahaRERA has observed that the complainant has filed this online complaint before MahaRERA on 4-12-2019. However, till date the respondent has not bother to file its reply to this complaint, though the complaint is visible to the respondent in its project. Even after issuance of the SOP dated 12-06-2020, the respondent was liable to upload it reply in digital form in this complaint. However, till date the respondent has not complied with the said direction. Furthermore, though the notice for this virtual hearing has been duly served upon it, the respondent failed to appear for the hearing which 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.

5. The MahaRERA has examined the arguments advanced by the complainant. The complainant being an allottee of this project filed this complaint seeking possession of his flat along with interest for the delayed possession under section 18 of the RERA. There is a registered agreement for sale dated 27-05-2017 entered into between the

complainant and the respondent wherein the respondent agreed to handover possession of the said flat within a period of two years from the date of execution of the said agreement i.e 27-05-2017. However, the possession has not been handed over to him. Hence, it is seen that the respondent has violated the provision of section 18 of the RERA.

6. In view of above facts and discussion, the respondent is directed to handover possession of the flat to the complainant by obtaining occupancy certificate. The respondent is further directed to pay interest to the complainant for the delayed possession from 27th May, 2017 for every month till the actual date of possession on the actual amount paid by the complainant at the rate of Marginal Cost Lending Rate (MCLR) plus 2 % as prescribed under the provisions of Section-18 of the Real Estate (Regulation and Development) Act, 2016 and the Rules made there under.
7. With these directions, the complaint stands disposed of.




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