

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC00600000000394

CC006000000056309

CC006000000056719

CC006000000057759

1. Murleedhar Maruti Bande
2. Achyut Kulkarni, Kalpana Waingankar & Ajeet Kurdekar
3. Santosh Digambar Tandel
4. Falco Buyers Welfare Association ... Complainants

Versus

Kambar Constructions ... Respondent

MAHARERA REGN.NO. P51700012252

Coram: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants in Complaint no: CC00600000000394 and CC006000000056719 were present themselves.

Complainants in Complaint no: CC006000000056309 were present themselves and represented by Ms Shraddha Dube-Patil, Ms Alemfiya Mandviwala, Adv i/b Mr Sulaiman Bhimani.

Complainants in Complaint no: CC006000000057759 were represented by Mr. Santosh Tandel and Mr. Vinod Mehra.

Respondent was represented by Mr. Rohit Chugani

Order

November 05, 2020

1. The complaint no: CC006000000057759 has been filed by Falco Buyers Welfare Association which is an association of allottees of 5 projects namely FALCO WOODSHIRE (MahaRERA Regn No. P51700012252), FALCO RIVERSHIRE (MahaRERA Regn No. P51700005912), FALCO CHESHIRE (MahaRERA Regn No. P51700006040), FALCO PEARLSHIRE (MahaRERA Regn No. P51700011065) and FALCO PINESHIRE (MahaRERA Regn No. P51700014064). The Complainant has

stated that all the 5 projects have been stalled for a very long time. However, to ensure the project work gets started and is completed smoothly, they prayed that appropriate order be issued under section 7(3) of the Real Estate (Regulation and Development) Act, 2016 (herein after referred as 'the said Act') and the Respondent be allowed to complete the project under fresh terms and conditions in accordance with Consent Terms between the parties.

2. The complaints have been filed with respect to FALCO WOODSHIRE (MahaRERA Regn No. P51700012252). The webpage of the project registration shows that the project validity has expired in December, 2019 and thereafter has not been extended. The project construction work is nearly completed. The project has a total 128 apartments, of which 115 are shown as booked apartments. The details of encumbrances mention India Infoline Housing Finance Ltd (IIFL).
3. As per MahaRERA Order no. 8/2019 dated March 29, 2019 on Revocation of Registration of Project, Complaint no: CC006000000057759 filed against the said project was clubbed together and heard along with the other complaints CC00600000000394, CC006000000056719 and CC006000000056309.
4. The Complaints no: CC00600000000394, CC006000000056719 and CC006000000056309 have prayed that the Respondent be directed to pay interest, on delay, to the complainants from the assured date of possession until the handover of the possession, as stipulated under section 18 of the Act.
5. The Respondent has filed their written submission and stated as follows:
 - a) We had several meetings with the Members since October 2016 to convince members to make their scheduled payments to enable completion of the Project (construction work was in progress at that time). However, due to local village issues, the project was held up for almost 18 months between March 2015 to August 2016. A significant amount of work on the 14 storey tower had been completed by 2017 itself.
 - b) Thereafter, clients had filed complaint before Hon'ble MahaRERA. In one of the hearings, the direction was given to file individual cases for each tower, since all towers have separate plan sanction and MahaRERA registration no. Accordingly, clients of respective buildings filed individual complaints and for 2 of the 5 towers, we have already received the MahaRERA Order under section 7 read with section 7(3) of the RERA Act, 2016 and Respondent is in the process of

commencement of work in the coming weeks.

- c) In case of Project 'Woodshire', the Association had opted to take over the Project for completion. Accordingly, submission was made before Hon'ble MahaRERA Member on May 6, 2019 wherein Respondent was asked to hand over all the information pertaining to potential costs and receipts individually from all the members along with the list of all members with contact numbers and address within 2 days, which was duly complied with.
 - d) There is already a Recovery Order issued by MahaRERA for one client Mrs Pradnya Nikhil Sable against their cancellation of unit in the Project (Complaint No. CC006000000000369) – further, the Tehsildar has frozen the RERA Bank Account and also blocked the registration of new units with the Sub-Registrars.
 - e) There is also an institutional loan (construction finance) with India Infoline Housing Finance Limited – they are willing to settle on an amount in lieu of full and final settlement; would seek your guidance on the same.
6. On behalf of the Association of Allottees, Mr. Santosh Tandel submitted that the present complaint filed by the combined Falcon Buyers Welfare Association should be closed as they have formed separate project wise associations. The Complainant further submitted that the unsold flats are mortgaged with India Infoline Housing Finance Ltd (IIFL) and they have initiated legal action under the SARFAESI Act.
7. It was explained that since IIFL has taken possession under SARFAESI Act, any new promoter appointed by IIFL will have to apply to RERA for change of name of promoter u/ s 15 of the said Act. Moreover, the allottees who want to withdraw from the project or are seeking interest for delay at this stage, may consider continuing in the project till the completion of the project and then claim, decide on their continuation or withdrawal. It was further explained that in para 115 of the judgement of Hon'ble Bombay High Court in *Writ Petition No. 2737/- U Neelkamal Realtors. Vs. Union of India*, it has observed that the object and purpose of the Real Estate (Regulation and Development) Act, 2016 is to complete the development work within the stipulated time frame. Accordingly, keeping the interest of project completion and the larger interest of the association of allottees in mind, any withdrawal from the stressed project or claim on interest on delay, at this stage, will adversely affect the project completion and will not be in the larger interest of the allottees in the project.
8. The Respondent submitted that a large number of allottees in project Woodshire have

been approaching the Respondent to start the project work and complete it, as has been done in respect of other towers which have got MahaRERA Order under section 7 read with section 7(3) of the RERA Act, 2016. He added that they are in discussion with IIFL and are hopeful of settling the outstanding dues of IIFL. He further added that he will discuss with the association of allottees to get the consent of more than 51% of allottees, to file a fresh complaint u/s 7 (3) of the said Act. The representatives of Falcon Buyers Welfare Association, Mr. Santosh Tandel and Mr Vinod Mehra, both submitted that they will cooperate in resolving the impediments in the restarting of the stalled project.

9. In view of the above, the complaints are hereby disposed of.

Gautam Chatterjee Digitally signed by Gautam Chatterjee
Date: 2020.11.05 12:30:22 +05'30'
(Gautam Chatterjee)
Chairperson, MahaRERA

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
MUMBAI

COMPLAINT NO: CC00600000000394

Mr. Murlidhar Bande

..... Complainant

Versus

Kambar Constructions

..... Respondent

MahaRERA Registration No - P51700012252

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

Date: 25th October, 2017

Order

The complainant and the respondent were present in person today before the Authority. The complaint is regarding payment of interest due to delay in the possession of flat. The respondent has proposed in writing to hand over the possession of the flat by June 2018, failing which the respondent is willing to pay interest with effect from 1-7-2018 as per the provisions of RERA Act and Rules made thereunder. The complainant has accepted the said proposal. The same is taken on record. The complaint stands disposed of accordingly.


(Dr. Vijay Satbir Singh)
Member-1