

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO. CC006000000056072

Rekha Kunal Chheda

... Complainant

Versus

Rajesh Unispaces Pvt. Ltd.

...Respondent (1)

Sandeep Estate Development Pvt. Ltd.

...Respondent (2)

MahaRERA Regn. No. P51900013846

Coram : Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented by Mr, Kunal Chheda

No one appeared on behalf of Respondent (1)

Respondent (2) was represented by Ms. Nikita Jacob, Adv. a/w Mr. Ashok Doshi,  
Authorized Representative

**ORDER**

October 21, 2020

1. The Complainant has stated that she is an allottee of apartment bearing no. 801 in the project "Raj Spectrum" situated at Sion, Mumbai vide registered agreement for sale dated October 21, 2016 entered into by and between Rajesh Unispaces Pvt. Ltd., Respondent (1), and the Complainant. The Complainant has stated that even after 4 years, excavation works have not been completed by the promoters, till date. The Complainant has further stated that as per the said agreement, Respondent (1) was liable to pay the EMI till possession of the apartment is handed over to the Complainant. Further, she has stated that Respondent (1) has also stopped paying the EMI to the Financial Institution from whom Respondent (1) has availed loans under Subvention scheme. She has inter alia prayed that Respondent (1) should register the project with MahaRERA, funds raised by Respondent (1) from various Financial Institutions to be utilized for project development and Respondent (1) should be penalized for violation of the Real

Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder.

2. By virtue of Affidavit dated December 21, 2018 and July 31, 2019, the learned Counsel for Respondent (2) had submitted that they executed a Joint Development Agreement with Respondent (1) on an area sharing basis, dated September 26, 2014. As per the terms of the Joint Development Agreement, Respondent (1) was responsible for construction and development of the project against consideration being 50% of the total free sale area of the project. Respondent (2) had also submitted that they had written a number of letters / notices to Respondent (1) seeking clarity on the development of the project and completion timelines. However, Respondent (1) did not give any clarity on the same inspite of repeated reminders. The learned counsel for Respondent (2) had further submitted that in case Respondent (1) did not re-commence construction works of the said free sale building "Raj Spectrum" latest by September 30, 2019, Respondent (2) will initiate Civil and Criminal proceedings against Respondent (1) including but not limited to Arbitration proceedings as per terms of the Joint Development Agreement.
3. Accordingly, vide Interim Order dated December 9, 2019, MahaRERA had directed Respondent (2), who, as promoter has registered the project with MahaRERA, making Respondent (2) as Co-promoter, to intimate the status of the Civil, Criminal or Arbitration proceedings initiated against Respondent (1) as per the terms of the Joint Development Agreement. Further, the Respondents were restrained from creating any third-party rights, marketing and advertising the said project and were also directed to maintain status quo till further directions.
4. On the final date of hearing on October 20, 2020, hearing was held through video conference as per MahaRERA Circular no: 27/2020.
5. The learned counsel for Respondent (2) submitted an Affidavit, stating interalia:
  - i) Respondent (2) has invoked Arbitration proceedings against Respondent (1) and filed applications under Section 9 and Section 11 of the Arbitration

Act, 1996 bearing no. CARAP/548/2019 and CARBP/221/2020, which are pending before the High Court of Bombay.

- ii) Respondent (1) has by virtue of their letter dated December 12, 2019 expressed their willingness to exit the project in entirety and has subsequently vacated the plot as well.
  - iii) Respondent (2) has taken possession of the plot and in order to start construction of the said project, financial assistance will be required, therefore, the Interim Order dated December 9, 2019 be suitably modified or vacated by which the Respondents were restrained from creating any third-party rights, marketing and advertising the said project and were also directed to maintain status quo till further directions.
6. It was explained to the Complainant that even though the Respondent (1) with whom they had entered into registered sale agreement, has exited from the project and therefore is no longer a Co-promoter in the project, the status of the Complainant as an allottee in the MahaRERA registered project remains unchanged. However, at this stage when the project is at a standstill, their other prayers cannot be entertained and they have to wait till the project completion, as per the timelines given in the registration webpage.
7. In view of the above facts, the following order is passed:
- i. Sandeep Estate Development Pvt. Ltd., Respondent (2), is directed to complete the development of the said project as per the timelines given in the registration webpage and handover possession to all allottees in the project, including the Complainant.
  - ii. The part of the Interim Order dated December 9, 2019 by which the Respondents were directed to maintain status quo till further directions, stands vacated.

Gautam Chatterjee  
(Gautam Chatterjee)  
Chairperson, MahaRERA

Digitally signed by Gautam Chatterjee  
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Rajesh Unispaces Pvt. Ltd.

... Respondent (1)

Sandeep Estate Development Pvt. Ltd.  
MahaRERA Regn No. P51900013846

... Respondent (2)

**Coram:** Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was herself present.

Respondent (1) did not appear.

Respondent (2) was represented by Ms. Nikita Jacob, Adv. a/w Mr. Sachin Gudekar and Mr. Ashok Doshi, Authorized Representatives.

**Interim Order**

December 09, 2019

1. The Complainant has purchased an apartment bearing no. 801 in the project "Raj Spectrum" via registered agreement for sale (hereinafter referred to as the said agreement) dated October 21, 2016 and that possession of the apartment was to be handed over by June 30, 2018 with a further extension of 6 months i.e. latest by December 31, 2018. The Complainant has stated that as per the said agreement, Respondent (1) is liable to pay the EMI till possession of the apartment is handed over to the Complainant. The Complainant has stated that till date, even excavation works have not been completed by the Respondents. Further, she has stated that Respondent (1) has also stopped paying the EMI to the Financial Institution from whom Respondent (1) has availed loans under Subvention scheme. Further, the Complainant has stated that Respondent (1) has not registered themselves with MahaRERA and funds raised by Respondent (1) from various Financial Institutions to be utilized for project development purposes have been



diverted by the Respondent (1) for non-project purposes as a separate bank account has not been maintained. The Complainant has further stated that incorrect project details have been uploaded on MahaRERA website by Respondent (2) and wrong disclosures have been made vis-a-vis the commitments and representations made in the said Agreement.

2. The said project is registered with MahaRERA by Respondent (2).
3. The learned Counsel for Respondent (2) submitted that the Respondents have executed a Joint Development Agreement, on area sharing basis, dated September 26, 2014. Further, she submitted that Respondent (1) has sold an apartment to the Complainant and therefore, the complaint against Respondent (2) may be dismissed.
4. By virtue of Affidavit dated December 21, 2018 and July 31, 2019, Respondent (2) submitted that under the terms of the Joint Development Agreement, Respondent (1) is responsible for construction of the said project against consideration being 50% of the total free sale area of the said project. Respondent (2) also submitted that they have time and again sought details from Respondent (1) in regards to the said project but no information has been shared by Respondent (1). Therefore, Respondent (2) is unable to upload complete information pertaining to the said project on the registration webpage of MahaRERA. Respondent (2) also submitted that they have written a number of letters/notices to Respondent (1) seeking clarity on the development of the said project and project completion timelines. However, Respondent (1) has not given any clarity on the same in spite of repeated requests and reminder letters. It was pointed out by Respondent (2) that they have held a meeting with Respondent (1) and during the said meeting, Respondent (1) agreed to re-commence construction works of the said free sale building "Raj Spectrum" latest by September 30, 2019.
5. The learned counsel for Respondent (2) also submitted that in case Respondent (1) does not re-commence construction works of the said free sale building "Raj Spectrum" latest by September 30, 2019, Respondent (2) will initiate civil and criminal proceedings against Respondent (1) including but not limited to initiation of Arbitration proceedings as per the terms of the said Joint Development Agreement.
6. None appeared for Respondent (1) for hearings, despite service of notice.



7. In view of the above facts,

- i. Respondent (2) is directed to intimate the status of the civil/criminal or adjudication proceedings against Respondent No. 1, as per the terms of the said Joint Development Agreement.
- ii. Respondents are restrained from creating any third-party rights, marketing and advertising the said project and are also directed to maintain status quo till further directions.

8. Next date of hearing to be scheduled accordingly.



(Gautam Chatterjee)

Chairperson, MahaRERA