

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO. CC006000000078346

Harjas Sarbjit Singh

... Complainant

Versus

The Bombay Dyeing and Manufacturing Company Limited  
MahaRERA Regn. No. P51900008726

... Respondent

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

Complainant was represented by Mr. Varun Mamniya.  
Respondent did not appear.


**Order**

(March 04, 2020)

1. The present application has been filed for non-compliance by the Respondent, in the complaint bearing no. CC006000000078346, wherein an Order dated May 29, 2019 (hereinafter referred to as the *said Order*) was passed by the Authority. In the said Order, the Respondent was directed to refund all the amounts paid by the Complainant, on failure of the parties to execute and register an agreement for sale, under the provisions of clause 18 of the Model Form of Agreement, Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules 207.
2. The Respondent did not appear, inspite of notice of hearing being served.
3. During the course of the hearing, Complainant submitted that an appeal against the said Order has been preferred by the Respondent.



4. In view of the above, since the said Order has been already raised before the Hon'ble Maharashtra Real Estate Appellate Tribunal (MahaREAT), the present application for non-compliance stands dismissed.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA

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Complainant was himself present a/w Ms. Madhuri Nalluri, Adv. (i/b L. D. Shah & Co.).  
Respondent was represented by advocates of M/s. Negandhi, Shah & Himayatullah.

**Order**

May 29, 2019

1. The Complainant has booked an apartment bearing no: 606 in the Respondent's project 'ICC' situated at Wadala, Mumbai in June, 2017 via an application form and the same was never provided to the Complainant. Therefore, the Complainant prayed that the Respondent be directed to refund the amount paid along with interest.
2. During the course of the hearing, the Complainant submitted that the draft agreement sent by the Respondent is contrary to the provisions of RERA's model form of agreement and therefore he initiated the cancellation of the said booking. He submitted that the Respondent assured the refund will be done, however, till date, no refund has been done by the Respondent and instead the Respondent issued several demand notices. Therefore, he prayed that the Respondent be directed to refund the principal amount paid by them as per the provisions of Clause 18 of the Model form of Agreement, as annexed to the Maharashtra Real Estate (Regulation and Development)



(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017.

3. The learned counsel for the Respondent submitted that the Respondent had issued the demand notices as per the allotment letter. Further, he submitted that the Respondent has clarified to all the queries raised by the Complainant pertaining to the alleged inconsistencies in the draft agreement for sale.
4. The learned counsel for the Respondent submitted that the Respondent has obtained the occupancy certificate (OC) for the said project in March, 2019. Further, he submitted that the Respondent will execute and register the agreement for sale strictly as per the provisions of the said Act and the rules and regulations made thereunder. Further, he submitted the Respondent is willing to clarify any doubts the Complainants may have and that the draft agreement for sale is in compliance with the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder.
5. Clause 18 of the Model form of Agreement, as annexed to the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 reads as thus:

#### 18. BINDING EFFECT

*Forwarding this Agreement to the Allottee by the Promoter does not create a binding obligation on the part of the Promoter or the Allottee until, firstly, the Allottee signs and delivers this Agreement with all the schedules along with the payments due as stipulated in the Payment Plan within 30 (thirty) days from the date of receipt by the Allottee and secondly, appears for registration of the same before the concerned Sub- Registrar as and when intimated by the Promoter. If the Allottee(s) fails to execute and deliver to the Promoter this Agreement within 30 (thirty) days from the date of its receipt by the Allottee and/or appear before the Sub-Registrar for its registration as and when intimated by the Promoter, then the Promoter shall serve a notice to the Allottee for rectifying the default, which if not rectified within 15 (fifteen) days from the date of its receipt by the Allottee, application of the Allottee shall be treated as cancelled and all sums deposited by the Allottee in connection therewith including the booking amount shall be returned to the Allottee without any interest or compensation whatsoever.*



Therefore, since the parties have failed to agree to execute and register the agreement for sale, the Respondent shall treat the allotment as cancelled and refund all amounts paid by the Complainant, without any interest.

6. Consequently, the matter is hereby disposed of.



(Gautam Chatterjee)  
Chairperson, MahaRERA