

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

COMPLAINT NO: CC0060000000141010

Kailash Chandra Bhatt

... Complainant.

Versus

Nirmal Developers

...Respondents.

MahaRERA Regn: P51800012383

Coram: Shri B.D. Kapadnis,
Hon'ble Member II.

Appearance:

Complainant: Adv. Mr. Deolekar.

Respondents: Adv. Mr. Tushar Kadam.

Final Order
11th March, 2020.

The complainant contends that he booked Flat No. 1003, C Wing in the respondents' project 'Olympia' when their representative promised that the construction of the said project would commence in February 2015 and the possession of the flat would be handed over by December, 2017. The respondents failed to act on their promise. The respondents offered the complainant with option to seek refund of his monies and the complainant duly opted for it. Even thereafter the respondents did not refund his money namely Rs.30,55,506/- and service tax of Rs.1,13,362/-. Hence the complainant claims a refund of the said amount with interest.

2. The respondents have pleaded not guilty and they have requested to dismiss the complaint by contending that the complainant is not an allottee to seek refund of his amount under RERA. They deny their liability to refund Rs.31,68,868/- claimed by the complainant by contending that there is no allotment letter issued by them or any agreement executed in



complainant's favour. They further contend that the complainant has cancelled the booking on 29th November, 2017 and he was aware of its consequences. Hence they request to dismiss the complaint.

3. Heard the learned Advocates of the parties.


4. Though the complainant has contended that the respondents did not commence the construction work till the year 2015 and did not give possession of the flat by December 2017, he has not produced any oral or documentary proof to attract section-12 of the RERA for claiming refund of his amount on this ground. Be that as it may. It becomes clear from the pleadings of the parties that the complainant has cancelled the booking by sending e-mail to that effect on 29th November, 2017 and the complainant contends that the respondents have not refunded his money. Though he has referred to e-mails exchanged between them he has not produced any e-mail to show that respondents have accepted the cancellation.

5. However, now it appears that the complainant has made up his mind to cancel the booking and therefore the respondents are also liable to refund his amount as per the terms and conditions agreed by them. Hence the parties shall be governed by the agreed terms of refund if any or as per prevalent practice.

6. The complaint stands dismissed accordingly.

Mumbai.

Date: 11.03.2020


(B. D. Kapadnis)
Member II,
MahaRERA, Mumbai.