

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

COMPLAINT NO: CC006000000057158

Dr. Saurabh Arvind Patel ... Complainants.
Mrs. Kumud Arvind Patel

COMPLAINT NO: CC006000000057220

Millind Madhukar Malshe ... Complainants.
Madhukar Bhaskar Malshe

COMPLAINT NO: CC006000000057221

Jaywant Babu Chavan ... Complainants.
Suman Rangnekar
Suresh Chavan
Shweta Samant
Smita Aranake

COMPLAINT NO: CC006000000057223

Mohan G. Phadke ... Complainants.
Abhijit M. Phadke

Versus

Rockline Developers Pvt Ltd. ... Respondents.
Megaview Spaces (Formely Jayesh Builders)
Vimal K Shah
Nainesh K Shah
Kishor N Shah
MahaRERA Regn: P51800001166.

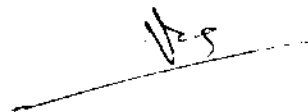
Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Appearance:

Complainants Adv. Mr. Girin N. Pandit &
Ratnesh Dube.

Respondent No.1 : Mr. Hemant Gowda.

Respondent Nos 2 to 5 : Adv. Mr.
Sushant Chavan.



COMMON FINAL ORDER

11th June 2019.

Complaint No: CC006000000057158 and Complaint No: CC006000000057220 are on today's board. The connected two other matters are also taken on board with the consent of the learned advocates of the parties to hear them on the issue of maintainability of these complaints.

The brief facts of the cases are; the complainants were the tenants of the demolished building 'Sai Chaya'. It is redevelopment project taken by the respondent No. 2 for redevelopment. The complainants contend that the respondent No. 2 entered with them in the agreements of permanent alternate accommodation dated 05.04.2003. The promoter agreed to provide 1BHK flats situated preferably on 1st to 6th floor of the new building free of cost and also agreed to pay compensation of Rs. 5,000/- per month. The possession of the flats was to be given within 18 months. The promoter also agreed to pay them Rs. 5,000/- in addition to the aforesaid compensation, if possession would not be given within 18 months. It is their case that the respondents No. 2 has handed over the project to respondent No. 1. The complainants are seeking possession of their flats as agreed and also seeking compensation from the respondents.

The respondents have taken objection to the maintainability of the complaints by contending that the complainants have already filed civil suits in Mumbai city Civil Court and obtained decrees against the respondents. They have filed execution proceedings which are pending. The respondents are ready to handover the possession of flats as agreed. The respondents therefore contend that the reliefs sought in the complaints have already been granted by the civil court and the execution petition are also filed. Hence, the complaints are not maintainable.

The relevant facts are as under:

Complaint No.	Vacated Room No.	S.C. No.	Execution application	Area / flat agreed to be allotted.
CC006000000057158	2	37/2009	72/2017	270.23 sq. ft.
CC006000000057220	8	2395/2009	73/2017	341.30 sq. ft.
CC006000000057221	7	126/2010	74/2017	334.15 sq. ft.
CC006000000057223	11	2394/2009	71/17	344.28 sq. ft.

Heard the learned advocates of the respondents who has highlighted the above points.

The learned advocate of the complaints admits the fact that the above mentioned suits have been decreed and execution petitions are pending before Mumbai City Civil Court.

I have perused the decrees passed in the favour of the complainants. They show that the City Civil court granted the complainants' prayer for possession of the agreed flats and also directed the promoter to start construction work of the building and complete the same in a time bound schedule and to put the plaintiffs of those suits in possession of their respective flats. The prayers of compensation have not been allowed by the civil court. I find that the civil court has already decided the issue and hence it is not necessary for this Authority to decide the same issue in these complaints.

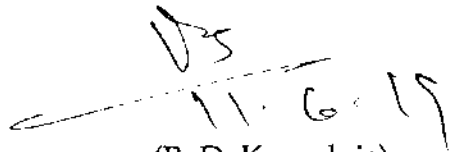
In these, circumstances I find that the complaints on the same set of facts cannot reopen the issue which has been already adjudicated upon by the civil court by filing these complaints. The complaints are not maintainable on the principle of res - judicata. Hence, the order -

Order

Complaints are dismissed.

Mumbai.

Date: 11.06.2019.


(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.