

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
MUMBAI**

Complaint No. CC005000000022609

Mr. Shashikant Sampatrao Wakharkar & 10 Ors.

.... Complainants

Versus

M/s. Vijaylaxmi Creations

.... Respondent

Project Registration No. P52100002885

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

Adv. Kiran Dhavalikar appeared for the complainants.

Adv. P. A. Gardure appeared for the respondent.

ORDER

(24th December 2019)

1. The complainants have filed this complaint seeking directions from the MahaRERA to the respondent to obtain the occupancy certificate, formation of society of allottees, issuance of allotment letter of covered car parking and issue of conveyance deed, under section 11(4)(b), 11(4)(c), 11(4)(e), 11(4)(f) & section 14 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "RERA") with respect to the booking of their respective flats in the respondent's project known as "**Satyam Serenity – A**" situated at Wadgaonsheri, Pune, bearing MahaRERA registration No. P52100002885.
2. This complaint was heard on several occasions and the same was heard finally on 14/11/2019, when both the parties appeared through their respective advocates. During the hearings, the parties sought time to submit their respective submissions, and in principles of natural justice, adequate time was granted to them to submit their respective submissions.
3. It is the case of the complainants that, they are the allottees in the respondent's project and they have purchased their flats in the said project by executing registered agreements for sale from December 2013 till April

2017 and have paid full consideration amount towards the said flats. The respondent got the revised building plan sanctioned from the Pune Municipal Corporation (PMC) on 02/05/2013. Although in the agreements for sale the respondent has mentioned that they intend to construct a 11-storey building, it has not got the required sanction for the construction of the same. As the respondent has not obtained the permission to construct the additional 5 floors on the existing 6 floor building, it held up the project and prolonged the completion of the same.

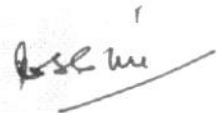
4. The complainant further stated that, in the agreements for sale, the respondent has promised to hand over the possession of the flats to the complainants in 24 months from the date of the agreements for sale. The respondent completed the construction of the building in June 2016, and received part occupancy certificate on 30/06/2017 and handed over the possession of the flats to the complainants by executing furniture possession agreements. However, till date, the respondent has not complied with the conditions as per the part occupancy certificate dated. 30/06/2017. The respondent has also not formed the society as mandatory under section 11(4)(e) of RERA. The road existing on the site has also not been completed by the respondent till date. Further, the respondent has installed iron bars dividing the car parking into two and trying to resale the car parking to third parties. The complainants prayed to pass appropriate order in the complaint with respect to the reliefs sought.

5. The respondent filed reply on record of MahaRERA and resisted the claim of the complainants. It stated that it has got the sanctioned revised building plan from the PMC. It also stated that, it has complied to all the conditions of the part occupancy certificate, but, it is on the part of the competent authority to expedite the process of incorporating its name in the mutation entry in the PRC to develop the existing road. The said formality is done and the 7/12 extract has already been transferred in the name of the respondent.

6. The complainants have been handed over the possession of their flats in the year 2016 by obtaining part occupancy certificate on 30/06/2017 and while registering the project with the MahaRERA, it had mentioned the revised completion date as 31/07/2023. It has obtained the occupancy certificate except 2 flats and duly fulfilled their obligation as per the agreements for sale before the agreed date of possession on the said agreements. It further stated that, it has already started the procedure of formation of society as per the Maharashtra Co-operative Societies (MCS) Act, 1960. However, the complainants are trying to prolong the formation of society to save them from the responsibility of paying the maintenance charges and therefore, not co-operating with the respondent. The respondent also denied any unauthorised construction of car parking on the nullah as stated by the complainants.
7. The MahaRERA has examined the arguments advanced by both the parties and the available record. In the present case, admittedly, the complainants have received possession of their respective flats in the year 2016 along with the part occupancy certificate. However, the full occupancy certificate has not been obtained by the respondent till date, due to the pending conditions of the part occupancy certificate issued on 30/06/2017. During the hearings, the respondent stated that, it has already complied with all the conditions as per the part occupancy certificate. However, it is stated that it is for the competent authority to grant the full occupancy certificate. In this regard, the MahaRERA directs the respondent to pursue the matter before the competent authority and get the full occupancy certificate within a period of 3 months.
8. With regards to the issue raised by the complainants for the change in plan, the MahaRERA is of the view that, the complainants are required to agitate the issue before the competent authority i.e. the PMC.



9. With respect to the formation of society, the respondent has already taken steps for the formation of the society. The complainants are directed to co-operate with the respondent by signing the application form so as to enable the respondent to comply with the statutory authority cast upon him by the section 11(4)(e) of RERA.
10. Additionally, while registering the project with the MahaRERA, the respondent has mentioned the revised date of completion as 31/07/2023 which is not a reasonable period commensurate with the status of the project on site. The MahaRERA feels that, one year is sufficient for the respondent to complete the project. The respondent is, therefore, directed to pre-pone the date of completion of the project from 31/07/2023 to 31/12/2020.
11. With the above directions, the complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member – 1/MahaRERA