

**THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, MUMBAI.
COMPLAINT NO: CC005000000023390**

Sandeep Subhashrao Dhumal

... Complainant.

Versus

Bramha Leisures Pvt. Ltd.
Surendrakumar Bramhadutt Agarwal
Vishal Surendrakumar Agarwal
(Bramha Skyuzuri)

... Respondents.

MahaRERA Regn: P52100006447

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

Appearance:

Complainant: Adv. Mr. Harshad Nanaware.


Respondents: Adv. Mr. Ashutosh Srivastava.

FINAL ORDER

15th January 2020.

The complainant has booked units bearing nos. 0202, 0203, 0204, 0210 & 0213 situated on the second floor of respondents' registered project 'Bramha Skyuzuri' situated at Pimpri, Pune in the year 2016. The complainant has paid Rs. 3,00,000/- towards their consideration up till now. However, he was surprised to receive email dated 12th February 2019 whereby the respondents have cancelled the booking of the units and also deposited Rs. 2,87,359/- in his bank account. Therefore, the complainant challenges the unilateral decision of cancellation of the units taken by the respondents and seeks the direction to direct the respondents for executing the agreements for sale of the said units.

2. The respondents have pleaded not guilty. They have admitted that the complainant has booked the five units and paid them Rs. 3,00,000/-.



However, they contend that the complainant failed to complete the mandatory KYC process despite their letters dated 06.12.2018 & 22.12.2018. They provided their approved project financial number to the complainant as per complainant's letter dated 26.12.2018. Even thereafter the complainant did not respond to various text messages calling upon him to inform about the suitable time for convening meeting which was proposed on 04.01.2019. Despite the repeated reminders when the complainant did not respond, they sent final intimation letter dated 19.01.2019 by email and via post. The complainant was informed that in case of his delay to get the registration done within 15 days from the receipt of the notice his booking of units shall be cancelled. Even thereafter the complainant did not respond and hence they intimated that the booking of units was cancelled and asked complainant to collect the cheques of his amount but the complainant did not turn for collecting the cheques. They had to deposit his amount in his bank account by deducting the amount of tax. Hence the respondents request to dismiss the complaint.

3. Heard the advocates of the parties.

4. It is mandate of Section 13 of RERA that the promoter cannot accept a sum more than 10% of the total value of the unit without first executing the agreement for sale and registering it. I find that the complainant has booked five units and paid only Rs. 3,00,000/-. The correspondence to which the respondents have referred to in their reply indicates that they informed the complainant time and again to come forward for completing the KYC process for the purpose of registration of the agreements for sale of the booked units. The learned advocate of the complainant submits that the complainant is wild life photographer and therefore, he was away from station for a long time, hence, he could not respond to respondents.



5. While hearing the arguments, I ask the learned advocate for the respondents, whether units are resold or not after cancellation of the bookings and to collect the information from the respondents but the learned advocate arguing for the respondents, instead of collecting information from the respondents submitted that he would consult his senior which I think was not proper on his part. Practically the learned advocate was not co-operating with me for finding a practical solution of the matter within the four corners of the law. Be that as it may.

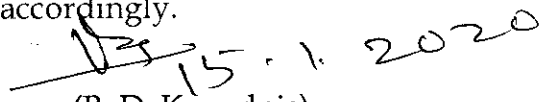
6. The complainant shows his readiness to perform his part of the contract and intends to continue in the project. However, even after repeated intimations, when the complainant did not come forward for completing KYC process required for registration of the agreements, the respondents were legally prevented by Section 13 of RERA from collecting further payments. They have given sufficient time and opportunities to complainant. Therefore, I do not find any merits in the complaint because the record shows that the respondents have not taken unilateral decision of cancellation of units.

7. Respondents have already refunded the amount by deducting the amount of tax paid to the Government. In the facts and circumstances, I find it just to direct the respondents to pay interest at prescribed rate on the amount paid by the complainant from the dates of receipt till their refund. The prescribed rate of interest is 2% above SBI's highest MCLR which is currently 8.2% p.a. The parties should bear their cost. To conclude, the respondents shall pay interest to the complainant, as directed.

The complaint stands disposed off accordingly.

Mumbai.

Date: 15.01.2020.


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