

1. Complaint No. CC006000000055134

..Complainant

M / s . A d a r s h I n d u s t r i a l E s t a t e P v t .
Ltd. ..Respondent

..Respondent

Along With

2. Complaint No. CC006000000055215

..Complainant

M / s . Adarsh Industrial Estate Pvt. Ltd. ..Respondent

..Respondent

Along With

3. Complaint No. CC006000000055227

..Complainant

M / s. Adarsh Industrial Estate Pvt.
Ltd. ..Respondent

..Respondent

MahaRERA Project Registration No. P51800005832

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

Adv. Sayed Ahmed appeared for the complainants.

None appeared for the respondent.

(18th December 2020)

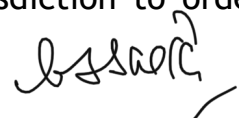
(Through Video Conferencing)

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2. The complainants in these complaints were seeking refund along with interest and compensation under section 18 of the RERA. After hearing the parties, these complaints were referred to Ld. Adjudicating Officer, MahaRERA/Mumbai to take appropriate decision in this case on merits vide interim direction of MahaRERA dated 05-12-2018.

3. Accordingly, the parties appeared and made their respective submissions before the Ld. Adjudicating Officer, MahaRERA/Mumbai and after hearing the parties and perusing the record, the Ld. Adjudicating Officer, MahaRERA/Mumbai was pleased to pass an orders on 08-05-2019 and allowed the complainants to withdraw from the project and further directed the respondent to refund the entire amount paid by the complainants along with interest at the rate prescribed under section 18 of the RERA read along with relevant Rules i.e. Marginal Cost Lending Rate (MCLR) of State Bank of India plus 2%. The respondent was further directed to pay to the complainants an amount of Rs. 20,000/- towards the cost of the litigation.

4. Being aggrieved by the aforesaid orders dated 08-05-2019 passed by the Ld. Adjudicating Officer, MahaRERA/Mumbai, the respondent preferred an appeal bearing No. AT006000000031611, AT006000000031612 and AT006000000031613 before the Hon'ble Maharashtra Real Estate Appellate Tribunal. In the said appeal the Hon'ble Appellate Tribunal passed a common order on 4-11-2020 and set aside the impugned orders dated 08-05-2019 passed by the Ld. Adjudicating Officer, MahaRERA/Mumbai on the ground that the Ld. Adjudicating Officer, MahaRERA/Mumbai has no jurisdiction to order



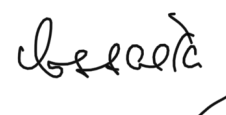
for refund and directed the MahaRERA to decide these complaints afresh within a period of 3 months. The parties were also directed to appear before the MahaRERA on 01-12-2020 for hearing.

5. Pursuant to the said common order dated 4-11-2020 passed by the Hon'ble Appellate Tribunal, the Ld. Adjudicating Officer, MahaRERA/ Mumbai again referred these complaints to MahaRERA to decide it afresh.
6. Accordingly, these complaints were scheduled for hearing today as per the Standard Operating Procedure dated 12-06-2020 issued by the MahaRERA for hearing of the complaints through video conferencing. Both the parties have been issued prior intimation of the said hearing and they were also informed to upload their respective documents in digital form as per the SOP dated 12-06-2020.
7. Pursuant thereto, the complainants appeared through their advocate and made their submissions. The respondent through has been served with the notice for this hearing, it has neither appeared nor filed any reply on record of MahaRERA. The MahaRERA has observed that the Hon'ble Appellate Tribunal has prescribed three months time to decide these complaints. Hence the MahaRERA is of the view that the respondent is avoiding to contest these complaints. Hence the MahaRERA heard the arguments of the complainants and also perused the available record.



8. In the present case, prima facie, it appears that the Ld. Adjudicating Officer, MahaRERA/Mumbai after hearing the arguments of both the parties and after perusing the record made available to him i.e. reply /rejoinder passed the said orders under section 18 of the RERA. The said orders have been passed by considering the facts/merits of this case. Moreover, the Hon'ble Appellate Tribunal while passing the common order dated 4-11-2020 has referred the matter to MahaRERA to decide afresh only on the technical grounds that the Ld. Adjudicating Officer, MahaRERA/Mumbai has no jurisdiction to order for refund as per the provision of RERA in view of its judgment dated 31.08.2020 delivered in the case of Pankaj Kishore Agarwal and Anr, and connected matter in Appeal Nos. AT006000000052542 and AT006000000052543.

9. The complainants during the course of hearing they have stated that they have purchased their respective flats in the respondent's project around the year 2013 for total considerations of Rs. 88,10,600/-, Rs. 88,61,900/- and Rs. 85,41,780/- respectively and have paid an amount of Rs. 74,03,924/-, Rs. 57,65,924/- and Rs. 54,64,370/- respectively towards the consideration of said flats. The respondent issued allotment letters to complainant at Sr. No. 1 & 2 on 10/04/2013 and also executed a MOU with the complainant at Sr. No. 3 on 10/05/2013. As per the said documents, the respondent had promised to start the construction of the project within a period of 12 months from the date of execution of the said documents. The respondent had further stated in the said documents that, on its default, it would be liable to pay interest at rate of 18% to the complainants. However, the respondent failed to start the project on time and to execute the registered agreements for sale with the complainants. The complainants further stated that, the project is still incomplete.



Hence the complainants filed the above complaints seeking refund along with interest and compensation. Hence they prayed that the similar orders be passed in these complaints as passed by the Ld Adjudicating Officer, MahaRERA on 8-05-2019.

10.The respondent though has been issued the notice for this virtual hearing, it has neither appeared nor filed any reply on record of MahaRERA and also to bring on record any new facts in these cases. It shows that the respondent is not willing to contest these complaints. Hence the MahaRERA has no other alternative but to proceed with these complaints exparte on merits as per the available record.

11.Considering the aforesaid facts and available record, the MahaRERA is agrees with the observations made by the Ld. Adjudicating Officer, MahaRERA/Mumbai in the order dated 08-05-2019 in these complaints. The MahaRERA therefore directs the respondent to refund the entire amount paid by the complainants along with interest at the rate of MCLR plus 2% as prescribed under section 18 of the RERA read along with relevant Rules made thereunder.

12.With these directions, all 3 complaints stand disposed of.



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