

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

1. COMPLAINT NO: CC006000000141201.

Mr. Bhagat Singh Rathore. ... Complainant.

2. COMPLAINT NO: CC006000000141202.

Mrs. Jyotsna Rathore. ... Complainant.

3. COMPLAINT NO: CC006000000171606.

Jerome Rodrigues and

Puneet Taneja. x ... Complainants.

4. COMPLAINT NO: CC006000000192884.

Mr. Prakash G Bhatia

Mrs Nisha P Bhatia. ... Complainants.

5. COMPLAINT NO: CC006000000192982.

Mr. Dhaval Shah. ... Complainant.

6. COMPLAINT NO: CC006000000193043.

Ms. Savita Satyajit Mahapatra. ... Complainant.

**Versus**

M/s. Mayfair Maru Developers ... Respondents.

MahaRERA Regn: P51700002231.

(Mira Pride)

**Coram:** Shri B.D. Kapadnis,  
Member-II.

**Appearance:**

Complainant: Adv. Mr. Suraj Naik at Sr. No. 1 & 2.

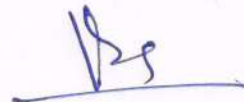
Adv. Mr. Vishal Maheshwari at Sr. No. 3

In person a/w Adv. Nilesh at Sr. No. 4.

Adv. Mr. Sagar Badani at Sr. No. 5.

Adv. Mr. Quresh Rupawala at Sr. No. 6.

Respondents: Mr. Nayan Shah a/w Adv. Nivit  
Srivastav.



**FINAL ORDER**  
**16<sup>th</sup> September, 2020.**

The complainants have booked their flats in the respondents' registered project 'Mayfair Mira Pride situated at village Bhayandar, Dist. Thane. The respondents did not execute and register the agreements for sale even after receiving more than 20% of the total consideration of their flats. The respondents have failed to handover the possession of their booked flats on the agreed dates. Therefore, the complainants withdraw from the project and claim refund of their amount with interest. They did not press for the compensation. The necessary information furnished by them is as under.

Complainant's Names	Flat Nos.	Orally promised date of Possession	Total Consideration	Consideration Paid
Mr. Bhagat Singh Rathore	A/ 1104	December 2015	Rs. 61,01,600/-	Rs. 31,45,070/-
Mrs. Jyotsna Rathore.	A/ 1103	December 2015	Rs. 61,01,600/-	Rs. 28,17,347/-
Mr. Jerome Rodrigues & Mr. Puneet Taneja.	A/ 103	December 2015	Rs. 54,22,800/-	Rs. 27,95,182/-
Mr. Prakash G Bhatia & Mrs Nisha P Bhatia.	A/1008	December 2015	Rs. 65,57,500/-	Rs. 33,80,069/-
Mr. Dhaval Shah	A/1001	December 2016	Rs. 72,85,000/-	Rs. 14,94,511/-
Ms. Savita Satyajit Mahapatra.	A/105	December 2015	Rs. 88,58,450/-	Rs. 20,84,000/-
Ms. Savita Satyajit Mahapatra.	A/106	December 2015	Rs. 60,75,919/-	Rs. 23,50,575/-

2. After the service of notice on the respondents, Adv. Mr. Srivastava appears for Mr. Nayan Arvind Shah who is one of the partners of M/s. Mayfair Maru





developers. Another partner of the said firm, Mr. Jayesh Kanji Maru has not appeared for the hearing. The notice is served upon the contact person named by the respondents. Therefore, it is a proper service.

3. I have heard Ld. Advocates of the complainants and the complainants in person. I have also heard Advocate Mr. Srivastav for Mr. Nayan Shah. Reply on behalf of Mr. Nayan Shah has been filed. Mr. Shah contends in the affidavit that there is dispute between Mr. Maru and him and the commercial arbitration petition (L) No. 1 of 2017 has been filed before Hon'ble Bombay High Court under section 9 of the Arbitration and Conciliation Act 1996. The settlement between the two partners has been arrived at and the consent terms have been filed dated 14.03.2017. It is specially mentioned in the consent terms filed before the Hon'ble High Court that some allottees have claimed either in court or consumer forum return of the advances paid by them. Both the petitioner and the respondent no. 1 (both the partners) agreed that, they will meet these claims in equal share once these claims are adjudicated by a court or a tribunal. They also agreed that neither the petitioner nor the respondent no. 1 will on its own or without the consent of the other submit to the decree and order before the court or tribunal. The arbitral proceedings are still pending. Therefore, Mr. Shah submits that his liability is only to pay 50% to satisfy the claims of allottees if directed by the Authority.

4. Heard both the sides on virtual platform.

5. It is seen from the information furnished by the complainants that they have paid more than 20% of the total consideration and even thereafter the respondents



have not executed the agreements for sale in their favour. As per the provisions of section 4(1) of MOFA, and as per section 13 of the RERA, the respondents were liable to execute and register the agreements for sale after receiving more than 20% of the total consideration during MOFA regime and 10% after 01.05.2017 when RERA came into force. Despite these legal obligations, the respondents have not executed the agreements for sale in favour of the complainants. Therefore, there is a breach of section 13 of the RERA.

6. The complainants have contended that when they booked the flats, at that time the respondents orally promised that they would hand over the possession of their respective flats on the dates mentioned in the table. However, the project is still incomplete and the respondents are not able to handover the possession of their flats because of their internal disputes.

7. I find that since the respondents have not disputed the fact that they have failed to handover the possession of complainants' flats as, the complainants have exercised their rights conferred by Section 18 of RERA on them to withdraw from project and claim refund of their amount with interest. They are entitled to get refund of their amount with interest at prescribed rate. The prescribed rate of interest is 2% above SBI's highest MCLR which is currently 7% p.a. I find that the complainants are also entitled to get Rs. 20,000/- towards the cost of the complaint. It is needless to mention that the liability to satisfy the complainants' claims would be 50% on Mr. Nayan Shah and 50% on Mr. Jayesh Maru. With this, the following order.

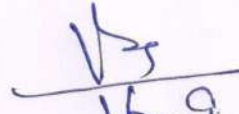




## ORDER

- A. The respondents shall refund the complainants' amount mentioned in the table with interest at the rate of 9% p.a. from the dates of their receipts till their refund.
- B. The respondents shall also pay to complainant/s of each complaint Rs. 20,000/- towards the cost of the complaint.
- C. The charge of the aforesaid amounts shall be on the respective flats booked by the complainants till satisfaction of their claim.
- D. The payment shall be subject to the period of moratorium specified by this Authority from time to time.
- E. The liability of both the partners to satisfy the complainants' claim will be 50-50%.
- F. Original order shall be kept in complaint no.: CC006000000141201 of Mr. Bhagat Singh Rathore and photostat copies shall be kept in rest of the complaints.

Date: 16.09.2020.

  
16.9.2020  
(B. D. Kapadnis)  
Member-II,  
MahaRERA, Mumbai.