

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000044445

Vaibhav Sawant ... Complainant

Versus

Aadinath Developers

MahaRERA Regn. No:

P51900015259 ... Respondent

Coram: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant were represented by Mr. Pratik Parmar, Adv i/b Randive and Kadam Associates
Respondent represented by Mr. Anwar Landge, Adv i/b Harshad Bhadbhade

Order

November 13, 2020

1. The Complainant has stated that he had booked apartments bearing no: 1901 and 1902 on the 19th floor of the Respondent's project 'MILLIONIST 14' situated at Matunga, Mumbai via allotment letters dated June 22, 2016 (hereinafter referred to as the *said allotment letters*) and were assured possession within 30 months. The Complainant has alleged that the Respondent has failed to execute and register the agreement for sale till date. Further, he alleged that due to the slow-paced construction, in February, 2017 the Complainant decided to withdraw from the said project, however the Respondent has till date has neither come forward to execute and register the agreement for sale for the said apartments nor has refunded the amount paid. Therefore, the Complainant has prayed that the Respondent be directed to either execute and register the agreement for sale for the said apartments and pay

them interest for the delay or refund the amount paid along with interest under Section 12 of the Real Estate (Regulation and Development) Act, 2016.

2. On the first date of hearing, the learned counsel for the Respondent submitted that as on date the project has approvals only up to the 18th floor and therefore the project is registered up to 18th floor only. However, the Respondent is willing to offer apartments to the Complainant on the lower floors. Accordingly, time was given for amicable settlement.
3. On review of the Respondent's registration webpage it is observed that the Respondent has registered the said project till 18 slabs of super structure and the Complainants' apartment is not part of the registered project. Hence, strictly speaking, the Complainant is not an allottee in the registered project MahaRERA Regn.No. P51900015259. Therefore, the provisions of Section 12 and 18 which the Complainant has sought relief under will not apply in this case.
4. On the final date of hearing, the learned counsel for the Respondent submitted that the Respondent is unable to get approval for the 19th floor and they are willing to refund the amounts paid by the Complainant.
5. Though the Complainant's apartment is not registered with MahaRERA, the act of the Respondent to take money from the Complainant for a proposed apartment and issue him an allotment letter, amounts to the promoter being involved in a kind of "unfair practice" by promoting sale by adopting unfair method like representing that the promoter has approval which he does not have. Thus the promoter is guilty of violating Section 7(1) (c) of the Real Estate (Regulation and Development) Act, 2016.
6. In view of the above, the Respondent is directed to refund the amounts paid by the Complainants, along with interest at the rate of State Bank of India MCLR plus two percent, within 30 days of this order.

Gautam
Chatterjee

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Chatterjee
Date: 2020.11.13 15:30:16 +05'30'

(Gautam Chatterjee)
Chairperson, MahaRERA