

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

Complaint No.CC005000000022046

Shri. Saleem Ahamed Shaykh

.. Complainant.

Versus

- 1.Lushlife Properties LLP
- 2.Lushlife Properties
- 3.Tulsi Nambiar

.. Respondents.

MahaRERA Regn: P52100011226

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

Appearance:

Complainants: Adv. Mr. Aman Dutta.

Respondents: Adv. Ms. Nandinee Meher.

FINAL ORDER

(08.01.2020)

Heard the learned Advocates of the parties twice. The facts which I can understand from the submissions of the learned advocate of the Complainant and documents placed on record are as under:

- a. The complainant claims himself to be the owner of 2 R land bearing survey No.19/2/2B/1/3 of village Undri Taluka Haveli.
- b. The agreement for development of said land has been executed by the Complainant with the respondents on 25-2-2011. It shows that the developers shall give the Complainant the built-up saleable area of 1100 sq. feet within 30



months from the date of registration of the agreement. The agreement appears to be registered on 8-3-2011. This built-up area is the consideration of 2 R land. Rs.4,00,000/- have been paid as security deposit on 25-2-2011 for performance of the said agreement.

c. There is memorandum of understanding dated 20-7-2016 which shows that Complainant was interested to purchase proposed flat No.802 in Wing-IV. It is also mentioned therein that instead of 1100 sq.ft. saleable carpet area, the additional 242 sq.ft would be given by the respondents as the compensation against delayed possession. It also provides that the respondents agreed to transfer Unit No.801 measuring 180 sq. meters in Wing-IV.

d. Civil Sub Suit 1253 of 2017 is filed by Sahubai Eknath Shendkar and others against Shri.Kaluram Shankar Jadhav and others in the court of C.J.Sr. D. Pune. Complainant is defendant at Serial No.20 and 36B thereof. The suit is regarding the cancellation of the documents relating to Survey No.19 (old survey No.18 Hissa No.2) (project land) and the suit is pending.

e. By letter dated 18-12-2019 the respondents informed the Complainant to settle the claims and also mentioned that the allotment of flat No.801 as per MOU dated 20-7-2016 stands cancelled.

f. The Complainant seeks the possession of the flat No.302 of the project.

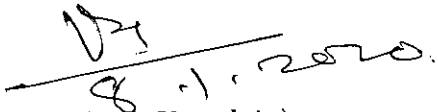
2. After giving two hearing to the learned advocates of the Complainant, I find that they are changing their stand time and again. According to them, the first allotment was of flat No.402 but it was sold to another, thereafter they refer to flat No.802 and 801. Ultimately they claim the allotment and possession of flat No.801. However, the complainant pleads and prays for allotment and possession of flat no.302. When the learned advocates were asked to show evidence to prove that the respondents agreed to allot flat No.302, the learned advocates could not lay their hands on any document to prove it and therefore the Complainant's contention that flat No.302 of the



project has been allotted to him in October, 2018 has not been proved and therefore the question of its possession, interest for delayed possession etc., do not arise and survive. I do not find any merit in the complaint and therefore dismiss it.

3. By way of clarification I put on record that the Complainant will have to decide as to which flat has been allotted to him as the consideration of his land and he has to pursue the remedy relating to the said flat. He is permitted to file the complaint on ascertaining the facts of the case by properly pleading the relevant facts for appropriate relief under the law.

Camp at Pune.
Date:- 08.01.2020


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