

COMPLAINT NO 1: CC006000000120955

to honour the same and therefore they have terminated the said agreement in October, 2018.

2. The project is registered with MahaRERA Regn. No P51800006264 by Mr Mahendra Bhaskar Mhatre. The revised proposed completion date mentioned in the registration has expired in June, 2019. Thereafter, the promoter has not sought any extension to the project validity period. The Complainant has prayed that the name of Developer ie Mr Mahendra Bhaskar Mhatre be removed from RERA registration and transferred in name of Society ie NIWARA CO-OPERATIVE HOUSING SOCIETY LTD. so that they can legally carry out sale of flats and get finance to complete this project as fast as possible.
3. The complaints were listed for hearing on February 11, 2020 and the Respondent was himself present.
4. On the first date of hearing Complainant (1)'s representative submitted that the Hon'ble Bombay High Court had constituted a committee under a court receiver and the Respondent was also a member of the same. However, due to the defaults committed by the Respondent, he has been removed from the said committee and the court has advised Complainant (1) to go ahead with Project completion. Further, she submitted that they have appointed a new architect for the said project and they have already applied to the concerned sanctioning authority for change of architect 's name in their record. She also submitted that they are in touch with Complainant (2) and that the Complainant society will honour the commitment made by the Respondent to her.
5. The Respondent submitted that the termination of the said agreement is not complete as the arbitration proceedings are still going on. Further, he submitted that he is willing to handover the project to Complainant (1) provided the commercial terms are agreed between the parties.
6. Interim order dated February 13, 2020 was passed after the first date of hearing, restraining the Respondent from creating any further third-party rights against unsold apartments in the project and directing Complainant (1) to convene a meeting of all the allottees, consisting of all the members of the owner co-operative housing society

and the purchaser allottees and come up with a proposed way ahead for project completion.


7. No one appeared on behalf of the Respondent on the next two dates of hearings on August 18 and September 24, 2020. The authorised representative of the Complainant (1) submitted that the Complainant society filed a suit against the Respondent in the Hon'ble Bombay High Court and that on August 20, 2018, the Hon'ble Bombay High Court appointed a Court Receiver along with committee of four members of Society and the Respondent to complete the long-delayed project. Further, she has submitted that till October, 2018 the Respondent did not take any active participation in this matter nor did he attend Court Receivers hearings and therefore, the Society went ahead and issued him termination letter on 16 October, 2018. She also submitted that on July 5, 2019, Justice Shriram passed an order stating that "*the Developer Mr Mahendra Mhatre has been a hindrance and hence is removed from the Court Receiver committee. The Committee will continue with completion of the project with exception of Mr Mahendra Mhatre*".

She submitted that as assured to the Hon'ble Bombay High Court, the Society members collected amount for payment of property tax and have got the society premises unsealed in August 2019. Subsequently, they also followed up with the BMC Building Proposal Dept, Kandivali and have got the name of owner and Architect changed on the BMC portal and that now the Complainant Society's name appears as Owner and one Mr. Harshaad More as the Architect. Further, she submitted that the application for getting IOD and CC revalidation is successfully done and now the Complainant society is only awaiting finance to start and complete the project and that they also have few potential buyers ready. Therefore, she submitted that since the development agreement with the Respondent has been terminated and the Hon'ble High Court, taking cognizance of the said termination and thereafter has also removed the Respondent from the Court Receivers Committee, the Complainant society now is the Sole Developer/Promoter of the said project and that the project can only be completed from sale of unsold apartments for which change of promoter from Mr Mahendra Bhaskar Mhatre to NIWARA CO-OPERATIVE HOUSING SOCIETY LTD. in the registration certificate is required.

She also submitted that the Respondent has withdrawn the arbitration proceedings filed by him and that a fresh arbitration application has been filed by the Complainant society and no Orders have been passed in the same.

8. In view of the above and in accordance with the provisions of Section 15 of the Real Estate Development and Regulation Act, 2016, read with Clause 3 of MahaRERA Circular No. 24/2019 dated June 4, 2019 regarding change of promoter, and in terms of the Order of the Hon'ble Bombay High Court, the name of the promoter for the project MahaRERA Regn. No. P51800006264 shall be changed from Mr Mahendra Bhaskar Mhatre to NIWARA CO-OPERATIVE HOUSING SOCIETY LTD.
9. The new promoter NIWARA CO-OPERATIVE HOUSING SOCIETY LTD. shall apply for change in promoter details as well as new revised date of completion of the project, in correction module and attach this Order as supporting document, in accordance with Clause 4 of MahaRERA Circular No. 24/2019 dated June 4, 2019.
10. All the Orders and directions of the Hon'ble Bombay High Court shall continue to be binding on the parties. As assured by Complainant (1), it shall honour the commitment made by the Respondent to Complainant (2).

**Gautam
Chatterjee**

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Chatterjee
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(Gautam Chatterjee)
Chairperson, MahaRERA

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

1. COMPLAINT NO: CC006000000120955
Niwara Co-Op Society
2. COMPLAINT NO: CC006000000055241
Chhaya Deepak Pawar

... Complainants

Versus

Mr. Mahendra Bhaskar Mhatre
MahaRERA Regn. No. P51800006264

... Respondent

Corum: Shri. Gautam Chatterjee, Hon'ble Chairperson, MahaRERA

Complainant (1) was represented by Ms. Pratiksha Thakur, Secretary of the Society.
Complainant (2) did not appear.
Respondent was himself present.

None appeared for the following Project Professionals: -

- i) M/s. Kavaia & Associates (Architect and Engineer)
- ii) Pratik P. Kambli & Associates (C.A.)
- iii) Bank of Baroda, Branch - Goregaon (East)

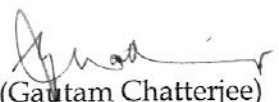
Interim Order

February 13, 2020

1. The Complainant has stated that they are the owners of the plot on which the Respondent is developing the project "Redevelopment of Niwara CHS Ltd" situated at Borivali, Mumbai. The Complainant has stated that they had executed a development agreement with the Respondent, however, the Respondent has failed to honour the same and therefore the Complainant has terminated the said agreement in October, 2018. Therefore, they prayed the Respondent's name be removed from the registration webpage of the said project and be replaced with that of the Complainant. Further, they have stated that the Respondent has submitted in the Hon'ble High Court that he has sold one apartment to one Ms. Chhaya Pawar and therefore they prayed that her details be shared with them.
2. Complaints were listed for hearing on February 11, 2020.



3. Complainant was represented by Ms. Pratiksha Thakur, Secretary of Niwara Co-Op Society. Respondent was himself present.
4. The Complainant's representative submitted that the Hon'ble Bombay High Court has constituted a committee under the court receiver and the Respondent was also a member of the same. However, due to the defaults committed by the Respondent, he has been removed from the said committee and the court has advised the Complainants to go ahead with the Project completion. Further, she submitted that they have appointed a new architect for the said project and they have already applied to the concerned sanctioning authority for change of Architect's name in their record. She also submitted that they are in touch with Ms. Chhaya Deepak Pawar, allottee in the project, and that the Complainant will honour the commitment made by the Respondent to her.
5. The Respondent submitted that the termination of the said agreement is not complete as the arbitration proceedings are still going on. Further, he submitted that he is willing to handover the project to the Complainant provided the commercial terms are agreed between the parties.
6. On review of the project's registration webpage it is observed that the project's registration has expired on June 30, 2019 and the Respondent has not taken any steps to extend the same.
7. In view of the above:
 - i. Respondent is restrained from creating any further third-party rights against unsold apartments in the project
 - ii. the Complainant shall convene a meeting of all the allottees, consisting of all the members of the owner co-operative housing society and all the purchaser allottees, within 45 days from the date of this Order and come up with a proposed way ahead for the project completion.
8. Next date of the hearing to be scheduled accordingly.


(Gautam Chatterjee)
Chairperson, MahaRERA

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000055241

Chhaya Pawar

...

Complainant

Versus

Mr. Mahendra Mhatre

MahaRERA Regn No. P51800006264

...

Respondent

Coram

Hon'ble Shri Gautam Chatterjee, Chairperson

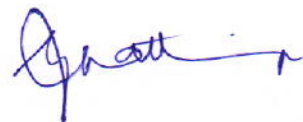
Complainant was herself present a/w Mr. Mangesh Humane, Adv.

Respondent was represented by Mr. Rohit Parsekar, Authorised representative.

Order

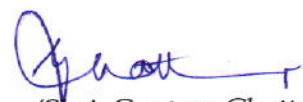
September 06, 2018

1. The Complainant has purchased an apartment bearing no: 301-A in the Respondent's project 'Redevelopment of Niwara CHS Ltd' situated at Borivali, Mumbai via registered agreement for sale (*hereinafter referred to as the said agreement*) dated January 12, 2016. The Complainant has alleged that the date of possession as stipulated by the said agreement is long over and that the Respondent has failed to handover possession of the apartment, till date. Therefore, he prayed that the Respondent be directed to pay him interest, on delay, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*) and commit to a reasonable timeline for handing over possession.
2. The authorised representative for the Respondent submitted that the said project is a redevelopment project and that the society members of the building, to be redeveloped, have filed for arbitration proceedings against the Respondent in the honourable High Court of Bombay for terminating the redevelopment agreement.



Therefore, he submitted that at this stage the Respondent is unable to commit to a timeline for handing over possession.

3. The Complainants submitted that at this stage, they are interested in having the project completed and will therefore not insist that the Respondent pay them interest for the delayed possession as on date, provided, the Respondent completes the project. Further, they submitted that if they do not see the efforts of the Respondent towards the completion of the project, they should be at liberty to demand interest as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder, from the Respondent.
4. The reasonable time period which can be allowed to the Respondent for completion of the project in accordance with Rule 4 of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017, can only be established after the mitigating circumstances get over and the project work recommences. Therefore, the time period which can be attributed to the Respondent for delay in handing over possession can neither be ascertained nor the date of handing over possession can be determined, at this stage.
5. In view of the above facts, the Respondent is advised to make efforts to resolve the dispute with the society members and complete the project work at the earliest. The Complainant shall be at liberty to demand interest at an appropriate stage, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder, from the Respondent for the delay in completing the said project.
6. The Respondent shall upload the details of the said litigation in their MahaRERA registration webpage within 2 days from the date of this Order.
7. Consequently, the matter is hereby disposed of.



(Shri. Gautam Chatterjee)
Hon'ble Chairperson, MahaRERA