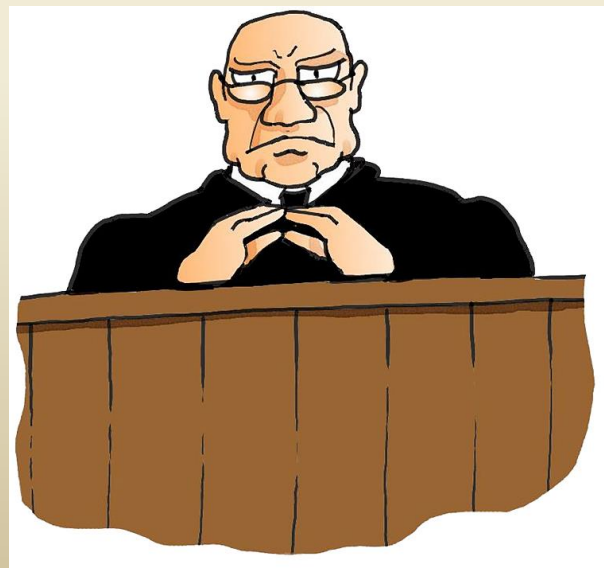


Recent Rulings of RERA



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MAHESH PARIANI V. MONARCH SOLITAIRE LLP

ORDER DATE 16TH OCTOBER 2017

FACTS

A MOU was executed wherein the complainant invested in the project and reserved 4 apartments for selling at profit ratio 70:30.

CLAIM

Recovery of principal amount with interest.

ARGUMENTS

- The promoter did not give the investment amount with interest nor gave the possession.
- The complainant has the status of “Co-promoter” as per MahaRERA circular.

HELD

The suit is of civil nature and it does not pertain to any contravention of RERA act.

MR. SWATANTRA ANAND V. PARADIGM AMBIT BUILDCON

ORDER DATE –18th SEPTEMBER 2017

FACTS

Complainant was appointed as **Contractor** to complete the construction work.

ARGUMENTS

- The completed 95% of rehab and 45% of sale component. Promoter did not disclose name of complainant while registering.
- Failed to pay outstanding dues of 13 cr.
- Contract was terminated by a Whatsapp message.

CLAIM

- Non-disclosure of Contractor while registering the project.
- Non-payment of bill
- Appointment of sub-contractor by respondent without notice to the complainant.

HELD

- **No locus standi**- Civil dispute.
- On date of registration Contractors agreement stood terminated therefore disclosure is proper.

MR. ISTEKHAR YUSUF SHAIKH V. DHRUVA WOOLLEN MILLS PVT. LTD.

ORDER DATE – 14TH SEPTEMBER 2017

FACTS

The promoter did not disclose the case pending against the promoter in respect of the project.

CLAIM

To disclose the status of pending litigation in respect the project.

ARGUMENTS

Filed PIL for Violation of Section 4 of RERA Act, and Rule 3 (2) (C) and (E) of MahaRERA.

HELD

- **NO Locus Standi** to the complainant who is not a Allottee of the project.
- RERA Authority has **no jurisdiction** to hear a complaint filed as PIL.

MUDHIT MADANLAL GUPTA V. LAVASA CORPORATION LTD.

ORDER DATE –30th OCTOBER 2017

FACTS

Agreement in which complainant has not received possession of apartment.

CLAIM

Delay in possession of apartment

ARGUMENTS

Respondent pointed out that the complainant on same matter has been filed in SCDRC where order has been directed to maintain status quo in respect of apartment.

HELD

As the same matter is pending before SCDRC complaint filed is not tenable.

VIJAYA POWAR V. M/S. SONA ENTERPRISES

ORDER DATE – 18TH SEPTEMBER 2017

FACTS

- A development agreement for area sharing was executed between complainant and the promoter in the ratio 50:50.
- Total of 32 apartments out of which 16 each are to be sold by the complainant and promoter.

CLAIM

- To terminate the Development Agreement.
- To allow the complainant to appoint new promoter
- To claim compensation

ARGUMENTS

- Complainant stated that she was not registered as “Co-promoter” and that the Promoter has left the project incomplete.
- Promoter stated that due to non-co-operation of the complainant they could not complete the project

HELD

- To upload the relevant information pertaining to Co-Promoter on the website and submit the compliance report before the Authority.
- No Adjudication on the claim made by Complainant.

Section 2(d) Allottee:

Means the person to whom a plot, apartment or **buildings** as the case may be has been:-

- Allotted
- Sold (freehold/ leasehold)
- **Otherwise transferred**

by the promoter

Excludes:

A person to whom such plot, apartment or building is given **on rent**.



MR. VISHAL KAMBLE V. AMOL LALCHAND BHILARE AND MR. KIRAN AMBADAS GOTE

ORDER DATE – 26th SEPTEMBER 2017

FACTS

- Respondent has forged the Agreement with malafide intension by providing area in sq.fts instead of 50% share in Development Agreement.
- Respondent has further forged by using 2 different names in Plans & Agreement

CLAIM

- Complainant is seeking for Specific Performance of Development Agreement executed between Complainant and Respondent.
- Complainant has prayed before authority to direct respondent to give 50% share in project.

ARGUMENTS

- Respondent argued that the Development Agreement was executed with complainant in 2012 which mentions area in Sq.fts and after 5 years complainant is disputing on grounds of Forgery.
- In regards to using 2 different names – Respondent states that it's a typographical error by Architect.

HELD

- Maharera has **No Jurisdiction** to try or entertain such Civil Disputes.
- To provide all Relevant information within 2 days and update Maharera by joining complainant and other Co-Owner as Co-promoter within period of 5 days.

ABHIGNA ENTERPRISES V. INCLINE REALTY PVT. LTD.

ORDER DATE –14th SEPTEMBER 2017

FACTS

Land adjoining to project land disclosed by the promoter is privately owned by the complainant and promoter has no right over it.

CLAIM

- Complainant claimed for cancellation of the registration certificate of promoter.
- Penalty be levied on promoter for the same.

ARGUMENTS

Promoter states that

- no misrepresentation or any misleading material has been uploaded.
- promoter has only proposed to develop the said land.
- Said land is not sanctioned till date for redevelopment.

HELD

- Authority held that, promoter shall upload amended disclosure stating correct and factual information pertaining to the same.

AMOL KADAM V. HORIZON PROJECTS PVT. LTD.

ORDER DATE 19TH SEPTEMBER 2017

FACTS

The complainant paid the booking amount and signed an allotment letter. Builder had refunded substantial percentage of booking amount on cancellation.

CLAIMS

Return Of Entire Booking Amount

ARGUMENTS

As per the allotment letter the promoter is liable to entirely forfeit the amount if the complainant withdraw from project at no fault of promoter

HELD

The promoter cannot be directed by MahaRERA to refund any further amount to the complainant.

VASANT JADHAV V. KAILAS PATIL

ORDER DATE –05th OCTOBER 2017

FACTS

- As per agreement for sale promoter was supposed to give possession of flat within 18 months from the date of execution of agreement.
- Promoter failed in giving possession as said agreement for sale

CLAIM

Complainant Claimed for:

- Compensation for rent of house for 5 years.
- Compensation under section 18 of RERA Act.

ARGUMENTS

Promoter stated that project was delayed because of the reason which were beyond his control. Bridge collapsed so worked stopped

HELD

- Promoter was ordered to pay compensation to complainant with interest on the amount paid by him till date of possession.
- Cost of complaint be paid.

JOAN DISOUZA V. DEEPAK KARNIK AND OTHERS.

ORDER DATE –04th OCTOBER 2017

FACTS

- Complainant purchased plot from the promoter with possession on or before 31.08.2014.
- Promoter failed to give possession of the said plot.

CLAIM

- Complainant has claimed refund under section 18 of the RERA Act and under section 8 of MOFA Act.
- Cost of Complaint.

ARGUMENTS

Complainant alleged that promoter failed to adhere sanctioned plan, thus contravention to section 12 & 14 of RERA Act.

HELD

- RERA is retroactive
- Promoter shall refund the amount with interest at 10.5% with effect from 1st September, 2014
- To pay 1 lac towards compensation along with the cost of the complaint.
- Documents of reconveyance of plot to be executed by the Complainant in favour of Promoter. On satisfaction of her claim.

AVINASH SARAF, NEHA DUGGAR SARAF V. RUNWAL HOMES PVT. LTD

ORDER DATE – 13th OCTOBER 2017

FACTS

- Complainants paid 97% of total consideration of the flat.
- The possession was to be handed over by promoter on or before August 2016.
- Complainant paid interest after August 2016 to bank.

CLAIM

- Refund of the consideration paid till date along with the interest at the rate of 21% p.a.
- Compensation on the payments made till date including payment of stamp duty and registration charges.

ARGUMENTS

- Promoter stated that RERA has no jurisdiction since the agreement is registered under MOFA sale deed 2014.
- Since amount of stamp duty & registration had been paid to government, these amounts cannot be recovered.
- Delay due to force majeure.

HELD

- RERA retroactive:
 - S.79 bars civil court
 - S.88 provides in addition to and not in derogation of provisions of any other law
 - S.71(1) complaint pending before consumer court can be shifted.

- Promoter to refund to the Complainant
 - Consideration paid till date
 - Stamp duty and registration charges
 - Compensation at 9% on the amount paid by complainant till 30th April, 2017
 - Interest to be given at the rate of SBI +2 % from 01/05/17.

DEEPA AND AVINASH MANSBADAR V. RUNWAL HOMES PVT. LTD.

ORDER DATE –18th SEPTEMBER 2017

FACTS

Complainant having paid 87% of consideration value of the flat, Agreement for sale was not executed by promoter for the same.

CLAIM

Complainant Claimed that:

- Agreement for sale drafted by promoter was not in accordance to Rera Act;
- Conditions in draft were not as decided in allotment letter.

ARGUMENTS

Promoter stated that the revised draft of agreement for sale is in accordance to the provision of the act.

HELD

Agreement made by the promoter is in accordance to the Act, if complainant wish to continue with project is ordered to execute the agreement for sale.

SUREKHA GAIKWAD V. M/S UNIVERSAL INFRA DEVELOPERS

ORDER DATE –10th OCTOBER 2017

FACTS

- As per agreement for sale date of possession given to complainant was on or before 30.10.2014, promoter failed in giving possession of the said apartment.
- Date of completion of project stated by promoter on MahaRERA website is 31.03.2018.

CLAIM

- Complainant has claimed refund under section 18 of the RERA.
- Early possession of flat

ARGUMENTS

- Promoter stated that reason for delay is beyond his control.
- Possession can be given by 30.11.2017 as OC is expected to be received in few days

HELD

- The Promoter shall handover the flat as per the actual date of possession failing which he shall be liable to pay interest to the Complainant till the date of possession.

“A person doesn't know how much he has to be thankful for until he has to pay penalty on it.”

Anonymous



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