

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

Complaint No. CC006000000100336

Mr. Nishant Prakashchandra Bhutada

.... Complainant

Versus

M/s. Tata Housing Development Co. Ltd

.... Respondent

Project Registration No. P51700000308

Coram: **Dr. Vijay Satbir Singh, Hon'ble Member – I/MahaRERA**

Adv. Jayesh Rathod appeared for the complainant.

Adv. Mohd Salim appeared for the respondent.

ORDER

(21st January, 2020)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent to refund the amount paid by him, along with interest under Section-18 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "RERA") related to the booking of a flat No. 212 in Building No. A, in the respondent's project -known as "**Amantra-Phase-2**" bearing MahaRERA registration No. P51700000308 at Bhiwandi, Dist -Thane.
2. This complaint was finally heard today. During the hearing, both the parties appeared and made their submissions. It is the case of the complainant that he saw the advertisement of the respondent and in March 2014, booked the said flat for a total consideration amount of Rs. 77,47,280/- in addition to the applicable statutory charges. The said amount includes a sum of Rs.4,75,000/- taken illegally for car parking and Rs.1,00,000/- towards club house. The registered agreement for sale was also executed on 17-10-2018. After reviewing the said agreement, the complainant suggested certain changes in the payment schedule. But, the respondent refused to do the changes in the schedule of payment. The complainant therefore wants to withdraw from the project and seeking refund under section-18 of the RERA.

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3. The respondent, on the other hand, had disputed the claim of the complainant and stated that the project, wherein the complainant had booked his flat, had already got completed and occupancy certificate was obtained in the month of March 2016 i.e. prior to commencement of RERA. Therefore, the said project has not been registered with MahaRERA and the complainant has filed this complaint under another project. Hence, the present complaint is not maintainable.
4. The respondent further stated that despite several reminders on various occasions, the complainant failed and neglected to make the payment as per schedule. Moreover, there is no delay in handing over possession of the said flat to the complainant as per the registered agreement for sale and hence his complaint for seeking refund under Section-18 of RERA is not maintainable. With regard to the allegations made by the complainant for car parking charges and other charges, the same are payable as per the terms and conditions of agreement for sale duly signed by the complainant. The respondent, therefore, prays for dismissal of the complaint.
5. The MahaRERA has examined the arguments advanced by both the parties as well as the record. In the present case, the complainant is seeking refund of the amount paid by him on the ground that the respondent has changed the terms and conditions of the agreement for sale and asked for excess amount from the complainant. However, the respondent has informed MahaRERA that the project wherein the complainant had booked a flat had already completed and occupancy certificate was obtained prior to commencement of RERA. Therefore, the said project was not registered with MahaRERA.
6. The MahaRERA has perused clause No.4 of the agreement for sale, wherein the date of possession is mentioned as 30 days from the date of payment of all the dues and outstanding payments in the said agreement with further

grace period of 12 months. In the present case, the complainant has not produced any cogent documents to show that the agreement date of possession mentioned in the said agreement has already been lapsed and there is violation of section-18 of the RERA.

7. Moreover, MahaRERA is also of the view that the provisions of Section-18 will come into effect if the promoter fails to hand over possession of the said flat to the allottee on the agreed date in the agreement for sale or any other document. However, in the present case, the project had completed prior to commencement of RERA and therefore, the developer has not registered the same with MahaRERA. Hence, the complaint filed by the complainant claiming refund under section-18 of the RERA is not maintainable.
7. With the above observation, the complaint stands dismissed for want of merit.



(Dr. Vijay Satbir Singh)
Member – 1/MahaRERA

महा-रेरा