

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

Complaint No. CC005000000106546

Sharad Agrawal

... Complainant

Versus

Pune House & Area Development Board, MHADA

... Respondent

MahaRERA Project Registration No. P52100009644

Coram: Shri. Mahesh Pathak, Hon'ble Member - I/ MahaRERA

The complainant appeared in person.

None appeared for the respondent.

ORDER

(Monday, 11th November 2024)

(Through Video Conferencing)

1. The complainant above named has filed this online complaint before the MahaRERA on 25-01-2022 seeking directions from MahaRERA to the respondent - promoter to complete the pending work as prescribed under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of the respondent's registered project known as "Const.378 LIG,331MIG,154HIG T." bearing MahaRERA project registration No. **P52100009644** located at Haveli, Dist. Pune.
2. This complaint was heard by the MahaRERA on 13-12-2023, 16-04-2024 and the same was heard finally on 02-07-2024 as per the Standard Operating Procedure dated 12-06-2020 issued by MahaRERA for hearing of complaints

through Video Conferencing. Both the parties have been issued prior intimation of this hearing and they were also informed to file their written submissions if any. Accordingly, both the parties appeared as per their appearance recorded in the Roznama and made their submissions. The MahaRERA heard the arguments of the parties as per their appearances recorded in the Roznama and also perused the available records.

3. After hearing the arguments of the parties, the following Roznamas were recorded in this complaint –

On 13-12-2023

The complainant is present. The respondent is absent. In fact the respondent was absent in the previous hearing as well and has also not filed any reply to the complaint. Therefore, the respondent is directed to file its reply to the complaint and upload the copy of the occupancy certificate received in the project from the concerned planning authority. The respondent is granted 3 weeks' time i.e. till 03-01-2024 to file its reply to the complaint mainly on the issues with respect to the water proofing, amenities (solar appliances) and fire fighting equipment etc. The complainant is given further 2 weeks' time i.e. till 17-01-2024 to file rejoinder to the reply of the respondent. The Registry is also directed to send copies of the Roznama as well as the complaint to the respondent. The complainant is also directed to upload the legible copy of the agreement for sale in the complaint. Accordingly, this complaint is adjourned to a suitable date after 17-01-2024 for further hearing. List the matter for next hearing on 13-03-2024.

On 16-04-2024

Both the parties are present. However, the respondent has not filed any reply to the complaint and is directed to do so within a period of two weeks i.e. by 30-4-2024. Admittedly, the leakage issue as well as the damaged plaster and

painting in the flat have been completed by the respondent. However, there is an issue of solar fitting in the flat and the respondent may include these facts in its reply. The complainant has also pointed out to the issue of water supply in the project. The respondent may include the issue of fire fighting equipment as well as the water supply in the project in its reply. The complainant may file a rejoinder to the reply of the respondent within a period of two weeks i.e. by 14-5-2024. The matter is adjourned to a suitable date after 14-5-2024 for further hearing. List the matters for next hearing on 2-7-2024.

On 02-07-2024,

The complainant is present. The respondent is absent. In fact although the respondent was present in the previous hearing on 16-04-2024, it has not filed any reply to the complaint. According to the complainant, the occupancy certificate for the project was received in 2018 and Form 4 was uploaded in July 2018, however, the occupancy certificate has not been uploaded in project registration on MahaRERA website. Therefore, the respondent may file its reply to the complaint along with written arguments within a period of one week i.e. by 16-07-2024 as a last chance. The complainant may file his rejoinder and written arguments within a further period of one week i.e. by 23-07-2024, even if the respondent does not file any reply. In case the respondent does file any reply/written arguments, the MahaRERA will be constrained to decide this matter ex-parte against the respondent on merits. Although some issues of the complainant as per the reliefs sought have been solved by the respondent, there are other remaining issues Accordingly, this matter is reserved for orders suitably after 23-07-2024 based on the arguments of the complainant in the hearing as well as reply, rejoinder and written arguments filed in the complaint.

4. Despite directions given in the hearing, neither complainant nor the respondent has uploaded any reply/rejoinder/written arguments on record of MahaRERA. Hence, the MahaRERA has perused the available record.
5. In this case, the complainant has not filed this complaint in proper format as prescribed under the relevant Rules made under RERA. However in the concise statement of facts, he has stated that he is facing problems related to water seepage/leakage at multiple points inside his flat and has multiple times informed MHADA officials, about the same on telephone call. Further, he has given a few letters as well during the period of 2018-2021. The complainant has given a summary of the problems that occurred inside his flat since possession such as construction defects, improper installation of things like doors, water leakage in common bathroom, common bedroom ceiling etc. However, the same are not rectified by the respondent. Hence, he has filed this complaint seeking compensation on account of such deficiency in the services as provided under section 14(3) of the RERA.
6. The complainant has also stated that although the OC for the said project was obtained in the year 2018, the same has not been uploaded on the MahaRERA website.
7. The respondent viz Pune Housing and Area Development Board, MHADA a promoter, which has registered this project with the MahaRERA has failed to file its reply on record of MahaRERA despite directions being issued to it. However, during the course of hearing held on 16-04-2024, it has informed the MahaRERA that the leakage issue as well as the damaged plaster and painting in the flat have been repaired by it. However, the respondent was directed to

file its reply on the issues of solar fitting, fire fighting equipment as well as the water supply in the project raised by the complainant in this complaint in its reply. However, the respondent has failed to do so.

8. The MahaRERA has examined the submissions made by both the parties and also perused the available record. The complainant by filing this complaint ostensibly under section 31 of the RERA is mainly seeking reliefs under section 14(3) of the RERA towards compensation for the defect liability. The complainant has mainly contended that although the respondent has completed the said project in the year 2018 and obtained OC for the same, there are certain structural defects in his flat, which the respondent has failed to rectify. Hence, he seeks compensation for the said structural defects in his flat.
9. The respondent - promoter although appeared for the hearing on 16-04-2024 and informed the MahaRERA that it has rectified the leakage issue, painting and damaged plaster in the complainant's flat. The said fact has been admitted by the complainant during the course of hearing.
10. However, as far as the issue with regard to the solar fitting, fire fighting equipment and water supply in the project, it has failed to submit any justified reply, despite specific direction was given to it. Hence, the remaining issues as raised by the complainant remain undisputed and unchallenged. Hence, the MahaRERA needs to decide this complaint on its own merits.
11. However, in the present case, on bare perusal of the available record, the MahaRERA has noticed that the complainant has been allotted the said flat under lottery system as per the MHADA policy. Accordingly, by virtue of the registered possession letter dated 03-07-2018, it seems that the possession of

the said was handed over to the complainant by the respondent as per the prevailing norms of MHADA (however, the date of possession cannot be verified). The record also shows that the respondent has completed the said project and obtained OC for the same on 31-03-2018 and 18-05-2018 from the Pimpri Chinchwad Municipal Corporation. However, the same are not uploaded on the MahaRERA website, although it has uploaded the Architect Form -4 dated 13-07-2018 on the MahaRERA website. It shows that the project is complete on site.

12. As far as the issue raised by the complainant about rectification of structural defects as provided under section 14(3) of the RERA, the MahaRERA is also of the view that the said provisions of the RERA clearly provides that : *'14(3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.'*
13. The aforesaid provisions of section 14(3) of the RERA, clearly provides that the promoter is under obligation to rectify the structural defects or any other defects in workmanship in the project for a period of 5 years from the date of handing over of the possession. However, in this case the present complaint is filed within the said defect liability period as provided under the aforesaid provisions of section 14(3) of the RERA i.e. within 5 years period.

14. Moreso, on bare perusal of the letter dated 18-08-2018 submitted by the complainant to the concerned officials of the respondent viz the Estate Manager, it appears that the complainant has informed certain structural defects in the said flat to the respondent. However, it seems that the said letter was issued by the complainant before obtaining possession of the said flat (as in the said letter the tentative possession date is mentioned as 01-09-2018). It shows that the complainant has raised the said issues before obtaining possession of the said flat.
15. In this regard, as provided under the aforesaid provisions of section 14(3) of the RERA, it is amply clear that the allottee needs to intimate such structural defects in writing to the promoter and the promoter is under obligation to rectify the same within a period of 30 days. However, in this case, the record shows that the complainant has not submitted any proof on record of MahaRERA to show that the respondent has violated the aforesaid provisions of the RERA and has failed to rectify the said defects within a stipulated time period of 30 days. Hence, at this stage he cannot claim any compensation under section 14(3) of the RERA. Needless to state here that the complainant is not entitled to raise any common issue.
16. In view of the above, the following order is passed:-
- a) The complainant is directed to inform in writing to the respondent about the pending structural defects in the said flat within a period of 30 days from the date of this order.
 - b) On receipt thereof, the respondent is directed to rectify the said structural defects pointed out by the complainant within a further period of 30 days.
 - c) Failing to comply with the aforesaid direction ay (b) above, by the respondent, the complainant would be entitled to agitate his claim towards

the compensation as per section 14(3) of the RERA by filing a complaint before the MahaRERA in Form -B addressing to the Ld. Adjudicating Officer for taking appropriate decisions under sections 71 and 72 of the RERA.

17. With these directions, the present complaint stands disposed of.

Mahesh Pathak

(Mahesh Pathak)

Member - 1/MahaRERA

