

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI**

Appeal No. AT006000000010533

In

Complaint No. CC006000000000680

1. Mr. Avinash Ramaswami Sannakki

2. Mrs. Suchita Avinash Sannakki

Both having address at

Brahmand Ph-4, C4/204, Azad Nagar,

Manpada, Thane (West) 400 607 ... **Appellants**

(Original Complainants)

Versus

1. Ascent Construction Pvt. Ltd.

Registered office at Gladys Alwares Road,

Near Khewra Circle, Chitalsar, Manpada,

Thane (West) – 400 610.

AND

Admn. Office at

Building No. 10, 5th floor, Solitaire Corporate

Park, Guru Hargovindji Road, Chakala,

Andheri (E), Mumbai – 400 093.

2. Mr. Rajesh Doshi, Managing Director of

Ascent construction Pvt. Ltd.

Building No. 10, 5th floor, Solitaire Corporate

Park, Guru Hargovindji Road, Chakala,

Andheri (E), Mumbai – 400 093. ... **Respondents**

(Original Respondents)

Adv. Shirish Deshpande for Appellants.

Adv. Abir Patel i/b Wadia Ghandy & Co. for Respondents.

**CORAM : SUMANT KOLHE, MEMBER (J)
S. S. SANDHU, MEMBER (A)**

DATE : 11th JANUARY, 2021

JUDGMENT

[PER: SUMANT KOLHE, MEMBER (J)]

Order dated 15th November, 2017 and order dated 13th June, 2018 passed by learned Member-1 of MahaRERA in Complaint No. CC006000000000680 are assailed in the Appeal.

Appellants are Allottees. Respondents are Promoters. I will refer the parties as Allottees and Promoters.

2. In Complaint No. CC006000000000680 filed by Allottees against Promoters for refund of the amount along with interest, learned Member-1 of MahaRERA passed order on 15th November, 2017 as under at "Exhibit-H".

YS

"1. The Complainants have filed this Complaint seeking directions to the Respondent to refund the entire part consideration amount paid by them along with interest from 11.08.2014 in the MahaRERA registered project bearing No. P51700001038.

2. This matter was heard and closed for order on 03.11.2017. However, for clarification purpose, this matter was again heard today, the 15th November, 2017. During the hearing, the respondent has submitted that he is willing to refund the amount received from the Complainants. Accordingly, he has submitted an undertaking through e-mail. Same is taken on record.

3. In view of the said undertaking, the Complaint stands disposed of."

3. Learned Member-1 of MahaRERA again passed order on 13th June, 2018 in Complaint No. CC006000000000680 it is as under at "Exhibit-M".

"1. The aforesaid Complaint was heard by this Authority and final order was passed earlier on 15.11.2017. The Complainants have filed Review Application dated 13.02.2018 seeking modifications in the order dated 15.11.2017 passed by this Authority.

2. The said Application was heard today. During the hearing, the Complainants have filed an application for withdrawal of this review application with liberty to file a fresh complaint. The same is taken on record. The request is accepted.

3. Accordingly, the Complaint is disposed of as withdrawn which is likely to file afresh."

4. Allottees are dissatisfied with both the orders. They have challenged propriety, legality and correctness of the orders in this Appeal.

5. Heard learned counsel for Allottees and Promoters. Perused both the impugned orders. Read the written submissions filed by both the parties.

6. Following points arise for our determination.

POINTS

- i) Whether impugned orders are just proper and legal?
- ii) What order?