

**MAHARASHTRA REAL ESTATE APPELLATE  
TRIBUNAL, MUMBAI.**

**APPEAL NO. AT00600000031651 of 2019**

**Ratul Lahiri**

**Flat No. 904, Casa Marina,  
Regency Street, Hiranandani Estate,  
Ghodbunder Road, Thane (West),  
Mumbai-400607  
Appellant/Allottee**

**V/s.**

**Tata Housing Development Company Ltd.  
Trade World, B-Wing, 2<sup>nd</sup> Floor  
Kamala Mills Compound, Senapati  
Bapat Marg, Lower Parel (West)  
Mumbai-400013  
Respondent/Developer**

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Advocate Tanuj Lodha a/w Advocate Ria Jain for Appellant/Allottee.

Advocate Gautam Ankhad a/w Varun Satiya and Snigdha Mankar i/b Crawford Bayley & Co. for Respondent.

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

**DATE : 22<sup>ND</sup> JUNE, 2020**



**JUDGMENT (PER: S.S. SANDHU)**

By this appeal Appellant, who is an Allottee, has challenged the order dated 20<sup>th</sup> May, 2019 passed by the learned Adjudicating Officer (hereinafter referred to as the A.O.) in Complaint No. CC66000000057247 filed by Appellant.

2. Appellant and Respondent will be referred as Allottee and Developer respectively in this Judgement.

3. Brief facts of the case are that Allottee booked a flat No. A-1803 admeasuring 858 Sq. ft. in the Developer's project, 'Gateway Towers at Aveza' at Mulund, Mumbai Suburban District. Developer allegedly promised to hand over possession by the end of 2018 at the time of booking of flat. Allotment letter which did not mention the date of possession was issued in July, 2015. Allottee paid to Developer more than Rs.59.73 lacs inclusive of Service Tax and MVAT between July and October 2015 against the total consideration of Rs.2.51/2.25 crores. On visiting the project site in July 2017, Allottee was allegedly informed that possession will be given in 2020. Around March-April 2018, while Developer pursued with the Allottee to pay necessary charges towards stamp duty and registration fees for execution and registration of agreement for sale, Allottee came to know from the website of MahaRERA (the Authority) that Developer has revised the date of possession to December, 2022.



4. Dismayed and shocked over the revised date of possession, Allottee did not proceed to execute agreement for sale though there were several reminders to that effect from Developer. As the Allottee was not ready to accept the delayed possession, he sent a demand notice dated 29.10.2018 for seeking refund of paid amount with interest @ 18% with effect from 1.11.2015. A detailed reply was sent by Developer on 6.12.2018 explaining the factors for delay in possession, non-execution of agreement for sale by Allottee, likely date of possession being 2022 as declared on MahaRERA website, readiness on the part of Allottee to wait for possession till mid-2020 vide his e-mail dated 17.4.2018, etc. However, being dissatisfied with Developer's aforesaid reply, Allottee filed the Complaint before the Authority seeking refund of amount paid with interest.

5. After hearing the parties, learned A.O. observed as to how the Allottee failed to draft the Complaint happily and had also not given dates of payment while claiming the refund. By observing that Allottee had no grievance when the Developer allegedly increased time for possession from 2108 to 2020, he opined that Allottee had in fact accepted 2020 as date of possession. He further observed that as date of possession was to be fixed at the time of execution of agreement, as per terms of Booking Form, Developer has committed no breach of contract regarding date of delivery of possession as the Allottee failed to co-operate in execution of the agreement. Therefore, he passed the order under

