

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

Appeal No. AT006000000031830

In

Complaint No. CC006000000058085

Kotak Mahindra Bank Ltd.

6th Floor, 12-BKC, Plot No. C-12, "G"
Block, Bandra Kurla Complex, Bandra
(East), Mumbai 400 051

... Appellant

Versus

East & West Builders

RNA Corporate Park, Next to
Collector Office, Kala Nagar, Bandra
(East), Mumbai 400 051

... Respondent

Ms. Ankita Mannari in person for Appellant.

Adv. Chirag Kamdar for Respondent.

CORAM : SUMANT M. KOLHE, MEMBER (J)

S. S. SANDHU, MEMBER (A)

DATE : 11th JANUARY, 2021.

JUDGMENT

[PER: S. S. SANDHU, MEMBER (A)]

By this Appeal, Appellant has challenged order dated 19.07.2019 passed by learned Member of MahaRERA whereby prayer of Appellant in the above complaint has been declined on the ground that Appellant cannot be treated as an aggrieved party.

2. Appellant is a financial institution and the Respondent is a Promoter.

3. As per facts of this case Appellant advanced loans to Respondent and its proprietor viz. Mrs. Saranga Anilkumar Aggarwal. Loans are secured by an exclusive charge over all receivables from Respondent's project, "RNA PALAZZO" situated at CTS No. 283/A and 283/B in Village Kandivali, Tq. Borivali, Mumbai to the extent of Rs. 15 Crores. As per arrangements between the parties, an Escrow account was opened for depositing all proceeds received from the project. On default in obligations by Respondent, Appellant declared and classified loan accounts of Respondent as non-performing assets (NPAs). Appellant further found MahaRERA portal showing that Respondent has opened another Escrow Account with SBI under RERA for directing customers to deposit receivables into the new account. As Respondent continued in default, Appellant approached the Debts Recovery Tribunal-II, Mumbai (DRT) which directed Respondent vide order dated 14.01.2019 to deposit all receivables in Escrow Account No. 0811589145 maintained with Appellant. As Respondent failed to comply with this order, Appellant filed above complaint with MahaRERA on 15.02.2019 and sought reliefs as under:

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- (i) Revocation of Registration No. P51800002906 of the Respondent on account of engagement of Respondent in fraudulent practices.

- (ii) Direction to Respondent to close all accounts operated in respect of the project and to deposit all receivables in the Escrow account No. 0811589145.
- (iii) Directions to Respondent to immediately display order dated 14.01.2019 of DRT on website of RERA and communication thereof to all Allottees for depositing all receivables in the aforesaid Escrow account as per directions of the DRT.
- (iv) Direction to Respondent to provide statement of all receivables deposited by Allottees and amounts withdrawn/utilised by Respondent since inception of the project.
- (v) Directions to disclose details of Bank accounts of Respondent in which the Allottees are required to deposit any amount towards

4. After hearing the parties learned Member held that Appellant is neither a Promoter nor Allottee or real estate agent and therefore cannot be treated as an aggrieved party as per provisions of Section 31 of RERA. He therefore declined to grant reliefs prayed for by Appellant as above.

5. Heard Ms. Ankita Mannari authorised representative for Appellant and Advocate Chirag Kamdar for Respondent.

6. Ms. Mannari, the authorised representative of Appellant submitted that as per terms of loans extended to