

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

Appeal No. AT006000000042072

In

Complaint No. CC006000000057837

1. Mrs. Harshada Mukund Pande

2. Mr. Mukund Madhukar Pande

Both having address at:

204, B Wing, Aakar lounge,
(Kamal Housing Society Scheme 2)
Ram Maruti Road, Panchpakhadi,
Naupada, Thane West- 400 602.

**... Appellants
(Allottees)/
(Original Complainants)**

Versus

M/s. Balaji Construction Company,

a Proprietorship/Partnership firm

Through its proprietor/partner,

Shri. Anil Thakurdas Kursija,

Having his office at C/o Kursija Corp,

202, Abhiman II, Damani Estate,

Near Teen Haath Naka,

Thane 400 602.

**... Respondent
(Promoter)/
(Original Respondent)**

Adv. Shankar Raheja for Appellants.

Mr. Sunil Dongare Authorised representative for Respondent.

CORAM : SUMANT KOLHE, MEMBER (J)

S. S. SANDHU, MEMBER (A)

DATE : 16th DECEMBER, 2020.

JUDGMENT

[PER: SUMANT KOLHE, MEMBER(J)]

This appeal is filed by Complainants against order dated 14th October, 2019 passed by Adjudicating Officer MahaRERA in Complaint No. CC006000000057837, whereby Complainants are allowed to withdraw from the project and Respondent is directed to pay the refund amount along with interest.

2. Facts necessary for deciding the Appeal and to appreciate the controversy in the Appeal that lies in narrow compass are as under:

Complainants are Allottees. Respondent is Promoter. In the project launched by Respondent at Bhyander Pada, District-Thane. Suman Nirbhavane and Chetan Nirbhavane agreed to purchase flat No. 1003 for a total consideration of Rs. 30,000,00/- (Thirty Lacs) exclusive of stamp duty and registration fees. Agreement for sale was executed and registered between Suman and Chetan Nirbhavane and Respondent on 21st October, 2014. Complainants agreed to purchase the said flat from Suman and Chetan Nirbhavane. Accordingly, agreement for sale was executed and registered between Suman and Chetan Nirbhavane and Complainants on 6th August, 2015. Total price of Rs. 30,00,000/- (Thirty Lacs) is paid to Respondent. Possession of the flat was to be given in the month of December, 2017. Respondent extended the date of possession up to May, 2023 while making registration of the incomplete project under RERA. Respondent failed to give the possession as per agreed date. Complainants decided to

u/s

withdraw from the project and demanded refund with interest and compensation from Respondent. Complainants filed the Complaint under Section 18 of RERA to seek refund with interest and compensation from Respondent.

3. The learned Adjudicating Officer of MahaRERA conducted enquiry in the Complaint. Both the parties were heard. Complaint came to be allowed. Complainants were allowed to withdraw from the project and Respondent was directed to pay the refund with interest to the Complainants.

4. Feeling aggrieved by order Complainants have preferred this Appeal. Complainants have prayed for compensation and damages as per Section 71 and 72 of RERA and Section 73 of Indian Contract Act in this Appeal.

5. Heard learned counsel for Complainants. Heard learned Mr. Sunil Dongare Authorised representative of Respondent. Respondent also filed written submissions. Perused the impugned order.

6. Following points arise for our determination.

POINTS

- i) Whether the impugned order is sustainable under law?
- ii) What order?