

MAHARASHTRA REAL ESTATE APPELLATE
TRIBUNAL UNDER RERA Act

No. AT006000000010557

M/s. Srushti Sangam Developers
Pvt.Ltd
Rashmi Sadan, 18th Road, Chembur,
Mumbai 400 071.

.. Appellant/s

V/s.

1. Sarvapriya Leasing (P) Ltd.
563, Dial Annex, Central Avenue,
Corner of 11th Road, Chembur,
Mumbai 400 071.
2. Mr. Devbrata B. Moulick
Kirana, D/2 , Flat No.11,
Narayan Poojari Nagar, A.G.Khan Road,
Worli, Mumbai 400 018.

..Respondent/s

None appeared for the Appellants.

Adv. Sanjay Chaturvedi for Respondents/Allottees

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.

Heard on : 30th October, 2018

Dictated/Pronounced on : 30th October, 2018

Transcribed on : 31st October, 2018

-:ORAL JUDGMENT:-

Heard finally.

1. The Appellant / Promoter after registration ^{of} appeal did not turn up on earlier 2-3 occasions. Notices are dispatched but no response. Consequently, the appeal is taken up for final hearing.



2. The allottee had paid a sum of Rs. 4,53,71,100/- only to the Promoter / developer and eight separate registered Agreements were entered into on 29th January, 2007 in respect of purchase of 6 shops and 2 offices by allottees. The project was left incomplete. Ultimately by filing complaint the allottee has urged the Authorities of MahaRERA, Mumbai for directions to the Promoter / developer for early completion of the project and soliciting occupancy certificate with other incidental requirements.
3. The Promoter / developer while registering the project has indicated the date of completion as 1st September, 2022. This made the Ld. Member-I, MahaRERA, Mumbai to get details by nominating Technical Consultant, MahaRERA, to visit the site and to submit a report about status of the project under reference including time required for its completion. Pursuant thereto, a report dated 2.4.2018 was tendered by Technical Consultant, which informed that 90% works of the project is already completed and within a period of 1 year, The leftover work could be completed.
4. These aspects made the Ld. Member MahaRERA, Mumbai to advance the date of handing over possession from 1.9.2022 to 1.11.2019. This is moreso, the order is dated 21st May, 2018. There is nothing to demonstrate from the Promoter / developer that permission from Planning Authorities are wanting or there operates an injunction or prohibitory order against the Promoter / developer in the directions dtd 21st May, 2018. The allottee in that situation cannot be branded to be an investor as the Promoter desires. This is moreso the definition of allottee u/s 2(e) of RERA Act does not specify any segregation in case of any person branded as a investor. Within the sweep of allottee, all types of categories are referred to. Consequently, no elbow room can be sought on the spur by the Promoter. The provisions of RERA are ^{leadingly} ~~clearly~~ clear in respect of such projects. It is to be read in tune ^{with} Section 4(2) of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017.

AA


5. Taking stock of above facts, I do not see any error in the order under challenge.

:- ORDER :-

1. The appeal is ~~stayed.~~ ^{dismissed.} *MA*
2. No costs.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 30th October, 2018


(K. U. CHANDIWAL, J.)
President,
Maharashtra Revenue Tribunal,
Mumbai
& I/c. Maharashtra Real Estate
Appellate Tribunal, (MahaRERA),
Mumbai