

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, MUMBAI**

Complaint No. CC001000000010125

Nilesh Patil & Others

...Complainants

Versus

Jayant Baburav Bhadange & Baburav Ganpat Bhadange ...Respondents

MahaRERA Project Registration No. P51600004972

Coram: Dr. Vijay Satbir Singh, Hon'ble Member – I/MahaRERA

Ld. Adv. Archana Salve appeared for the complainants.

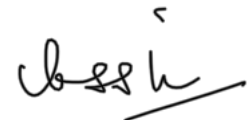
The respondents appeared in person.

ORDER

(Tuesday, 12th April 2022)

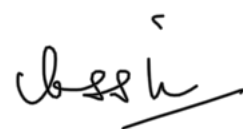
(Through Video Conferencing)

1. The complainants have filed this complaint seeking directions from MahaRERA to the respondent to pay the outstanding payment of building utility and provide the completion certificate under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of the respondent's registered project of the respondent known as "**Vrindavan**" bearing MahaRERA registration No. **P51600004972** located at Nashik.
2. This complaint was heard on 11-11-2020 and vide an interim order it was referred to Ld. Adjudicating Officer/ MahaRERA Mumbai for



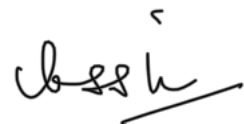
further appropriate action for deciding the compensation under section 18(3) of the RERA.

3. Thereafter this complaint was again referred to MahaRERA by the Ld. Adjudicating Officer/ MahaRERA on 12-04-2021 in view of the judgement and order passed by the Hon'ble Maharashtra Real Estate Appellate Tribunal in case of Mr. Pankaj Agarwal.
4. Accordingly, this complaint was heard finally on 01-02-2022 as per the Standard Operating Procedure dated 12-06-2020 issued by MahaRERA for hearing of complaints through Video Conferencing. Both the parties have been issued prior intimation of this hearing and they were also informed to file their written submissions if any. Accordingly, both the parties appeared and made their respective submissions. MahaRERA heard the submissions made by the complainant and also perused the available record. However, it was not possible to decide the matters expeditiously since the office work was severely impacted by Covid 19 pandemic, heavy workload on the subordinates and shortage of staff.
5. The complainants have filed this complaint mainly raising following 3 main issues i) the completion certificate has not yet been received, ii) the respondents have not paid common area taxes which is issued in the name of the respondent as though it was responsibility of the respondents to pay the same such as electricity bill, water bill, property maintenance charges and iii) the building has not been handed over to the allottees. Hence, the complainants have prayed



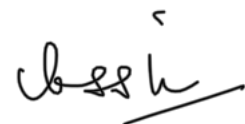
for specific direction to the respondents.

6. The respondent on the other hand has refuted the claim of the complainants by filing written explanation on record of MahaRERA. It has mainly stated that it has obtained the commencement certificate from the Nashik Municipal Corporation on 27-04-2015 and the civil work has been done as per the building plan. The respondent further stated that, after construction of the flat the complainants and other allottees requested it to give possession of their flats and accordingly considering the difficulties faced by the complainants and other allottees, the possession of the said flats have been given to the complainant. Further, it has completed the building construction by using bore-well water and thereafter, on 22-09-2017 they applied for water connection to Nashik Municipal Corporation and same was accepted by the Nashik Municipal Corporation by 10-10-2017 to provide the water connection to the allottees. Therefore, to pay the water bill is the responsibility of the complainants and other allottees. The respondent further stated that, the said fact was intimated to the complainants at the time of handing over the possession of their flats. Further, it has not used the Corporation water and hence, it is not liable to pay the water bill. In view of these facts, the respondent has prayed for dismissal of the complaint.
7. The MahaRERA has examined the submissions made by both the parties and also perused the available record. In the present case, by filing this complaint, the complainants have approached MahaRERA seeking directions to the respondent promoter to obtain the completion



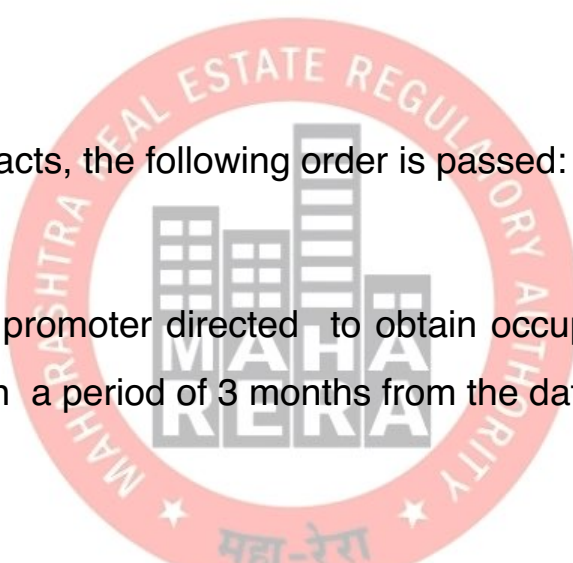
certificate for this project and to handover the project to the allottees and till then to make the payments towards the outstanding dues such as electricity/ water/property tax etc.

8. The respondents who are the partners of the promoter viz M/s. Nirmiti Builders, who has registered this project with MahaRERA (hereinafter referred to as the respondent) has refuted the claim of the complainants merely by saying that the possession of the said flat was handed over to the complainants on their requests and it has already applied for completion certificate to Nasik Municipal Corporation on 31-05-2018 and 10-12-2019. Further, it has provided the municipal water connection to the complainants and hence it is not liable to pay the water bill.
9. From the aforesaid submissions made by both the parties, the MahaRERA has noticed that the complainants have already taken possession of their flats in the year 2018 itself and till date the occupancy certificate has not yet been obtained by the respondent promoter. Further, from the webpage information uploaded by the respondent, it appears that though it has uploaded Architect Certificate Form-4, till date the occupancy certificate has not been obtained for this project, it shows that the project is still incomplete. The respondent promoter is under statutory obligation to obtain the occupancy certificate for this project as provided under section 11(4)(b) of the RERA, and till date the respondent has not complied with the said statutory obligation. The complainants allottees have taken possession of their flats willingly without the statutory compliances has been done

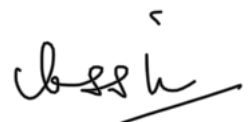


by the respondent as cast upon it under RERA. Though the complainants allottees have occupied their respective flats in the said project, however, the said possession is not legal possession in the eyes of law. Hence, the MahaRERA is of the view that till the respondent complied with its statutory obligation to obtain OC, it is liable to maintain the said building at its own cost. Needless to state here that after OC, the respondent shall have to handover the said project to the society, who thereafter shall be liable to maintain the said building.

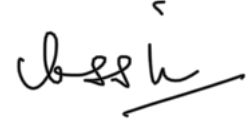
10. In view of these facts, the following order is passed:

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- a) The respondent promoter directed to obtain occupancy certificate for this project within a period of 3 months from the date of this order.
 - b) The respondent promoter shall also take appropriate steps from formation of society as required under section 11(4) (e) of the RERA and handover this project to the said society by obtaining OC.
 - c) Till the date of obtaining OC, the respondent shall be liable to pay the outgoing charges towards the maintenance of the said building towards the property tax/water bill etc.

11. With these directions, the complaint stands disposed of.



12. The certified copy of the order will be digitally signed by concerned Legal Assistant of MahaRERA and it is permitted to send the same to both the parties by e-mail.



(Dr. Vijay Satbir Singh)
Member – 1/MahaRERA

