BEFORE THE MAHARASHTRA

REAL ESTATE REGULATORY AUTHORITY, MUMBAI

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

COMPLAINT NO: CC005000000023959

KOKATE KISHOR SAHEBRAO &
YOGITA KISHOR KOKATE ...COMPLAINANTS

a/w
COMPLAINT NO: CC006000000023963

ASHOK JADHAV & GEETA ASHOK JADHAV ...COMPLAINANTS

a/w
COMPLAINT NO: CC006000000023965

NANASAHEB BALKRISHNA JADHAV &
KAVITA JADHAV ...COMPLAINANTS

a/w
COMPLAINT NO: CC006000000055875

RAMDAS SHRIRANG SANAP ...COMPLAINANT

a/w
COMPLAINT NO: CC006000000055882

SANTOSH SABAJI SAWANT ...COMPLAINANT

a/w
COMPLAINT NO: CC006000000055905

RUPESH DHANANJAY NAIK ...COMPLAINANT

v/s

KUBER ABHIRAJ INFRA
(Partnership) ...RESPONDENTS

MAHARERA PROJECT REGISTRATION NO. P51700008998

Order

May 23, 2022
(Date of hearing –23.03.2022– matters were reserved for order)

Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Complainants are present
Mr. Mahadik, authorised representative for the Respondents

1. The Complainants are home buyers and Allottees within the meaning of Section 2 (d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "**said Act**") of Real Estate Regulatory Authority (hereinafter referred to as the "**RERA**") and the Respondents are the Promoters/Developers within the meaning of Section 2 (zk) of the said Act. The Respondents are registered as the Promoters of the Project namely "KUBER GANRAJ" under section 5 of the said Act bearing **MAHARERA Project Registration No. P51700008998** (hereinafter referred to as the "**said Project**").

2. The Complainants have filed the present applications for non - execution of the final order dated 04.07.2018 passed by Erstwhile Chairperson, MahaRERA in complaint Nos. CC005000000023959, CC006000000023963 & CC006000000023965 and also in final order dated 19.10.2018 in complaint Nos. CC006000000055875, CC006000000055882 & CC006000000055905 (hereinafter referred to as the "**said non - execution applications**" and "**the said final orders**" respectively). The Operative part of both the said final orders are same and is reproduced hereunder:

"4. In view of the above facts, the Respondent shall, therefore, handover the possession of the apartments to the Complainants before the period of December 31, 2018. The Complainants shall be at liberty to demand interest at an appropriate stage, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder, from the Respondent for the delay in completing the said project."

3. On 23.03.2022 the said non-execution applications were heard and the following roznama was passed by this Authority:

"All the Parties are present.

The Complainants state that order dated July 04, 2018 is not complied with and seeks interest together with possession. The Respondent states that the matter is now been raised as a Civil Suit bearing Civil Suit No.- 012020 in the Kalyan Court making it difficult for him to comply.

The matters are Reserved for orders."

4. Before this Authority moves further, there is an inadvertent error apparent on record, in complaint Nos. CC005000000023959, CC006000000023963 & CC006000000023965 wherein the Complainants have mentioned their co-Complainant names in the Respondent section and hence the roznama dated 23.03.2022 also mentions the co-Complainant as Respondents. However, it is pertinent to note that the said Project is in the name of the Respondents, Kuber Abhiraj Infra, a partnership firm in the records of the MahaRERA Project registration webpage. Thus, the name of the Respondents in complaint Nos. CC005000000023959, CC006000000023963 & CC006000000023965 is Kuber Abhiraj Infra.

5. It is observed that vide the said final orders the Respondents were directed to handover the possession to all the Complainants before the period ending 31.12.2018, with occupancy certificate (OC), failing which the Complainants were at liberty to demand interest from the Respondents on the entire amounts paid by them, for the delay in completing the said Project, However, it is pertinent to note that the Respondents have failed to comply with the directions passed in the said final orders.

6. Further, the Respondents during the hearing dated 23.03.2022 submits that the Complainants have filed a Civil Suit bearing Civil Suit No. 012020 in Kalyan Court which is pending as on date and thus, they are unable to comply with the said final orders.

7. In view of above, it is pertinent to note that the Respondents have not submitted any stay order in the Civil Suit No. 012020 restraining handover of possession and / or any other documents with regard the same. Thus, the Respondents are directed to pay the total interest from 01.01.2019 till 30.05.2022 in one instalment by the 30.06.2022 and the remaining interest to be paid on monthly basis on the 7th of every month till handover of possession failing which this Authority shall issue directions for recovery and issuance of recovery warrant under section

40(1) of the said Act. In view of above all captioned non - execution applications are disposed of.

Ajoy Mehta

(Ajoy Mehta)
Chairperson, MahaRERA