BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, PUNE

CORAM :- SHRI W.K. KANBARKAR

Non-Compliance Application
IN
Complaint No.CC004000000020123

Vishwajit Vinchurkar &
Anil Vinchurkar .. Complainants

Versus

1. Deepak Vasandani
2. Luxora Infrastructure Pvt.Ltd. .. Respondent

MahaRERA Project Registration No.P50500007884

Appearance :-

Complainant : Adv. A.R. Fule
Respondent : Adv. Faiza Dhanani

ORDER

(15th Feb. 2024)

1. Vide order, dated 30.06.2018 passed by the Hon'ble Chairperson, MahaRERA, complainant is allowed to withdraw from the project and seek refund of the amount paid by them towards consideration of the apartment purchased in the said project and interest on the amount shall applicable from 01.05.2017 at the prescribed rate till the amount realized and subject to the deduction of moratorium period as mentioned in para 14 therein above, and further respondent is directed to cancel the agreement for sale of the complainant upon refund of the amount with interest to the complainant, etc., as detailed therein. The Hon'ble Authorityi while passing

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the said order, observed from the records, that the project is not yet complete as no OC or completion certificate has been uploaded by the respondent herein and that the said project registration has lapsed. The respondents are directed to file for extension of the said project within 30 days from the date of the order failing which they shall be liable to a penalty under Section 61 and 63 of the Act.

2. Heard Advocate for the complainant, who submits that final order is not yet complied even though directed to refund the amount together with interest and complainant is not aware about preferring any appeal or not and hence prayed for appropriate action. On the other hand, Advocate for respondent submits that project is being developed in the land of 200 acres. Appeal is preferred but there is no stay. Further submits that respondent proposed alternate premises to the complainant instead of premises mentioned in the agreement. Respondent further submits that as complainant has mortgaged the flat with HDFC Bank and respondent is not aware that the said loan amount is repaid or not. No D.P. Road is passing through the project area. In the month of April, 2023, approval for the project is granted. There are 700 allottees. On the other hand, complainant further submits that project is not yet completed and respondent has not obeyed the order of MahaRERA Authority and prayed for imposition of penalty.

3. In the light of submissions of both the parties reflecting that the order is not complied by the respondent regarding refund of amount together with interest, as mentioned therein. Therefore, this is just, proper and suitable case for issuance of recovery warrant for recovery of dues from the respondent in the light of the aforesaid order. Accordingly, issue recovery warrant for recovery of dues from the respondent addressing to the District Collector concerned, on furnishing requisite and entire papers by the complainant within a period of two months from the date of this order and in case of failure to comply the same within the stipulated period, this Non-Compliance Application shall automatically stands dismissed and disposed off.

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4. Vide para (e) of the operative part of final order, dated 30.06.2023, observed that the said project is not yet complete as no OC or completion certificate has been uploaded from the respondent and the said project registration is lapsed and respondent is directed to file extension for the said project within 30 days from the date of the order, failing which they shall be liable to penalty under Section 61 and 63 of the said Act.

5. The record of MahaRERA of the said project shows that on 26.07.2023, the respondent has preferred an application before the MahaRERA Authority and sought appropriate permission to apply for extension under Section 7 of the RERA Act and obtained consent of 51% of the allottees on 01.08.2023. Considering the application of the respondent-promoter, dated 26.07.2023, this is not a fit case to invoke the provision of Section 63 of the RERA Act to impose penalty upon the respondent-promoter.

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(W.K. Kanbarkar)
Adjudicating Officer, MahaRERA, Pune

Pune
Date :- 15.02.2024