

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI

Writ Appeal Nos.1565 and 1566 of 2017

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The table furnished to us by Sri S. Ravi, learned Senior Counsel appearing on behalf of the Developer, reads thus:

Sr. No	Particulars	Lodha Bellezza	Lodha Meridian
1.	Total Number of Units	362	748
2.	Units for which Sale Deeds Executed	264	413
3.	Units for which AFS Executed	32	206
4.	Units for which execution of AFS/Sale Deed is pending	29	32
5.	Total number of Units Sold (2+ 3+ 4)	325	651
6.	Balance Unsold Units (1-5)	36	73

Note: 73 Unsold Units in Meridian also consist of 4 Units that are earmarked as refuge area.

MERIDIAN PARKING SPACES: 783 FOR 746 UNITS + 37 ADDITIONAL SLOTS.

The apprehension expressed by both the Apartment Owners Welfare Associations (Bellezza Apartments Association and Meridian Apartments Association) was that the Developer would sell away all the flats and leave the issue unresolved, resulting in a prolonged battle between both the Welfare Associations. We, therefore, asked Sri S. Ravi, learned Senior Counsel appearing on behalf of the Developer, to inform us of the measures which would be taken to ensure that the Developer does not dispose of all the flats without resolving this contentious issue. We had suggested that the 73 flats, shown at Sl. No.6 of the above referred table, not be sold pending further orders in the Writ Petitions pending before the learned Single Judge.

As we were concerned about the interests of the agreement holders, who had entered into agreements of sale with the developer and had paid substantial amounts as consideration for the flats to be

purchased by them, we were initially inclined to permit the Developer to execute sale deeds in favour of those with whom agreements of sale were entered into by the Developer earlier. Sri Pratap Narayan Sanghi, learned counsel appearing on behalf of the Meridian Apartments Welfare Association, however, points out that there is a dispute regarding allotment of space for car parking and, while the earlier agreements of sale entered into with their members required space for car parking to be provided, the sale deeds executed in favour of some of the members provided for lease of the space for car parking in Bellezza Apartments, and not in the Meridian Apartments complex, and several of these agreement holders were not willing to have the sale deeds executed in their favour with this stipulation. We had, therefore, suggested that sale deeds should be executed only in favour of those who request the Developer in writing to do so, and not with others who are willing to wait till either the Writ Petitions are heard and decided, or until further orders are passed in the Writ Petitions pending before the learned Single Judge.

An affidavit is now filed today stating that the Developer undertook to execute sale deeds only in respect of the flat owners who request in writing that the sale deed be executed; a clause would be incorporated in the sale deed that the sale would be subject to the outcome of W.P. No. 31833 of 2017; and a copy of the said written request would be marked to the flat owners associations of both Bellezza and Meridian respectively.

There, however, remains a small area of dispute in this appeal. As required by law, the Developer had mortgaged 24 flats, in the Meridian complex, in favour of the GHMC. The aforementioned table does not reflect these 24 flats having been mortgaged. When we had asked Sri S. Ravi, learned Senior Counsel, yesterday whether these 73 flats included the 24 flats mortgaged in favour of the GHMC, learned Senior Counsel had answered in the affirmative.

Sri Pratap Narayan Sanghi, learned counsel, would however point out today that the aforementioned table makes no reference to the 24

flats having been mortgaged; and it is evident that the 73 flats, shown as unsold units at Sl. No.6, exclude the 24 flats which were mortgaged by the Developer with the GHMC. When we pointed out this discrepancy Sri S. Ravi, learned Senior Counsel, would fairly state that, as suggested by this Court yesterday, the 73 units shown at Sl. No.6 of the table would not be alienated until further orders in the WPMPs/Writ Petitions.

We consider it appropriate, in the light of what has been noted hereinabove, to modify the orders of the learned Single Judge, and to direct the Developer not to alienate the balance unsold 73 units, as reflected at Sl. No.6 of the afore-extracted table, until further orders either in the WPMPs or in the Writ Petitions. While the Developer may proceed and execute sale deeds with respect to those persons with whom an agreement of sale had been entered into earlier, they shall do so only on receipt of a written request from such persons, and a copy of the written request letters shall be marked to both the Welfare Associations.

Needless to state that, since it is only the orders in the WPMPs (under appeal before us) which have been modified, other WPMPs/Writ Petitions shall be heard and decided on its merits uninfluenced by any observations made in this order.

Both the Writ Appeals are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

31st October, 2017

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Date: 31.10.2017

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