

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO. 439 OF 2023
ALONGWITH
INTERIM APPLICATION NO. 17914 OF 2022**

M/s. MIG (Bandra) Realtors
And Builders Pvt. Ltd.

...Appellant

Versus.

Shri. Sanjay Kabra and anr.

...Respondents

Mr. Jay Chhabria with Mr. Yohaana Shah i/by. Negandhi Shah & Himaytullah, for the Appellant.

Mr. Prathamesh N. Kamat a/w. Mr. Harsh L. Behany, Ms. Atiksha Jain i/by. HN Legal, for Respondent No.1.

Mr. S.M. Seegarla i/by. RMG Associates, for Respondent No.2.

CORAM : SANDEEP V. MARNE, J.

Dated : 8 February 2024.

P.C. :

1. By this Appeal, the Appellant challenges the Order dated 22 July 2021 passed by the Maharashtra Real Estate Appellate Tribunal, Mumbai (**Appellate Tribunal**) dismissing Appellant's Appeal. In its Appeal, Appellant had questioned the Order dated 12 June 2019 passed by MahaRERA. The operative portion of the order passed by the Regulatory Authority reads thus : -

6. In view of these facts, the MahaRERA directs the respondent to execute the registered agreements for sale with the complainant as provided under section 13 of the RERA Act, 2016 in accordance with the allotment letter as per the agreed terms and conditions arrived at between both the parties.

2. Thus, all that the Regulatory Authority directed the Appellant is to execute a registered Agreement for Sale with the Respondent as per Section 13 of the Real Estate (Regulation and Development) Act, 2016 (**RERA**) in accordance with the allotment letter and/or as per the terms and conditions arrived at between both the parties.

3. The learned counsel appearing for the Appellant would submit that in view of several developments that have occurred in the interregnum, the Appellant will not be able to specify the date of delivery of possession as was agreed in the allotment letter and the Respondents are looking at June 2024 as the date of delivery of possession. The Order of the Regulatory Authority was passed on 12 June 2019. It appears that the original date of possession as per the allotment letter was 30 November 2019. Now the date of 30 November 2019 cannot obviously be stated in the agreement to be executed with the Respondent as per Section 13 of the RERA. The Appellant can specify the exact date on which they would handover possession to Respondents. However, specification of such date will not have an any adverse impact on the right of the Respondents to claim interest for delay in the delivery of possession under Section 18(1) of the RERA.

4. Mr. Chhabria, the learned counsel for the Appellant has shown willingness to execute an Agreement with the Respondents in terms of Section 13 of the RERA. In my view, therefore nothing would survive in the present Appeal. The Appeal is accordingly **disposed of** granting liberty to the Appellant to execute agreement with the Respondents specifying the date of delivery of possession. Such date shall not have any adverse effect on the right of the Respondents to claim interest from 30 November 2019 for delay in delivery of possession under Section 18(1) of the RERA. All questions of the parties on entitlement of the Respondents to claim interest are kept open.

5. With disposal of the Second Appeal, Interim Application does not survive. The same also stands disposed of.

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SANDEEP V. MARNE, J.