

JUDICIAL PRONOUNCEMENT BY APPELLATE TRIBUNAL -

Maharashtra Real Estate Appellate Tribunal in recent land mark judgement in the matter of TATA Housing Development Co. Ltd has given major relief to the homebuyers.

There have been various instances of homebuyers left with only allotment letters and could not get Agreement for Sales registered for various reasons.

Allottee has booked apartment in Project named " Gateway Towers" and was holding allotment letter only.

Allotment letter issued by Promoter did not mention date of possession but other documentary evidences like Advertising brochures etc did mention the possession dates.

During the complaint process MahaRera authority dismissed the relief sought by allottee u/s 18 for refund of principal with interest and compensation u/s 18 owing to default on the part of developer for delay in possession of the apartment.

Adjudicating Officer while rejecting the complaint observed that possession date has to be fixed while executing Agreement for Sales and allottee has failed to co-operate for execution of Agreement for Sales.

Allottee preferred Appeal before Appellate Tribunal being aggrieved by the order of the Authority.

Appellate Tribunal held that it is the obligations on the part of Promoter u/s 13 to ensure that Agreement for Sales is duly executed once trigger of 10 % of receipt of consideration is done and allottee cannot be held responsible for the same. Promoter cannot go on collecting more than 10 % of consideration in the absence of execution of Agreement for Sales.

Further, Tribunal held that absence of Agreement for Sales will not take away rights of allottee to claim relief u/s 18 of the Act.

Other documentary evidences viz. Allotment letter, Broachers and advertisement material can be relied upon to decide about breach or violation of Sec 18 of the Act on the part of Promoter.

Further, Tribunal rejected the argument of Promoter that Co - Promoter is not made party to the complaint treating it as technical matter.

This is major relief to home buyers who could not get their Agreement executed for various reasons. The Judgement of Appellate Tribunal support the view taken in Writ Petition No. 2737/2017 in the matter of Neel Kamal Realtors & Others Vs Union of India that RERA is welfare legislation to protect the interest of home buyers who invest their hard earned life saving funds.