

Complaint No. CC12400126

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
MUMBAI**

Complaint No. CC12400126

Rahul Naresh Bari

... Complainant

Versus

Godrej Properties Limited

... Respondent

MahaRERA Project Registration No. P51700034608

Coram: Shri. Mahesh Pathak, Hon'ble Member - I/MahaRERA.

The complainant appeared in person.

Ld. Adv. Abir Patel appeared for the respondent.

FINAL ORDER

(Order Pronounced on Thursday, 16th October 2025)

(Matter reserved for orders on 15-07-2025)

(Through Video Conferencing)

1. The complainant above named has filed this online complaint before the MahaRERA on 16-09-2024 mainly seeking directions from the MahaRERA, to the respondent for refund and compensation, as prescribed under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA'), in respect of the booking of a Flat No. 3003 in Tower 4 on 30th floor admeasuring 60.09 sq. mts. carpet area (hereinafter referred to as the said flat), in the respondent's registered project known as "Godrej Ascend Phase 1" bearing MahaRERA registration No. **P51700034608** located at CTS/Plot/S.No.234/1,234/2,235, 39,40,41/1, Dist. Thane (hereinafter referred to as the 'said project').
2. This complaint was heard by MahaRERA on several occasions and the same was heard finally on 15-07-2025 as per the Standard Operating Procedure dated 12-06-2020 issued by MahaRERA for hearing of complaints through Video Conferencing. Both the parties have been issued prior intimation of the said hearings, and they

were also informed to file their written submissions if any. On the said dates of hearing, both the parties appeared as per their appearances recorded in the Roznamas and made their respective submissions. The MahaRERA heard the submissions of both the parties as per their appearances and also perused the available record.

3. After hearing the arguments of both the parties, the following Roznamas were recorded in this complaint:-

i) On 30-09-2024 :

"First Hearing Matter"

"Both the parties are present. The complainant desires that this matter be referred for Conciliation for amicable settlement although the respondent desires that the matter be fixed for hearing on merits. Therefore, this matter is to be fixed for hearing on merits strictly as per seniority."

ii) On 15-07-2025:

"Both the parties are present. The complainant has filed this complaint for refund of the booking amount paid in August 2022 to the respondent. The respondent has mentioned that the complainant has withdrawn from the project beyond the period of 45 days sometime in October/November 2022 due to personal reasons. Therefore, the forfeiture mentioned in the application form i.e., 10% of the consideration amount would apply, also because of the case law. However, the complainant refutes this contention of the respondent and contends that he is willing for forfeiture as per the guidelines issued by the MahaRERA. The respondent may file its reply to the complaint along with written submissions within a period of 2 weeks i.e. by 29-07-2025. Further 1 week's time i.e. till 05-08-2025 is granted to the complainant to file a rejoinder to the reply of the respondent along with written submissions. In view of the above, the matter is reserved for order suitably after 05-08-2025 based on the arguments in the hearing as well as the reply, rejoinder and written submissions filed in the complaint."

4. Despite directions in the aforesaid hearing, both the parties have not uploaded any written submissions on record. Hence, the MahaRERA has perused the available record.

5. The complainant has not filed the complaint in the prescribed format. However, in the statement of facts, he has stated that he paid a booking amount of Rs.6,80,000/- vide application form dated 16-08-2024. He has further stated that he does not wish to proceed with the booking; however, the builder has refused to refund the said amount and has informed him that the entire booking amount of Rs.6,80,000/- stands forfeited. The complainant has prayed for directions to the respondent to refund the said booking amount at the earliest.

6. The respondent has filed its reply on 10-08-2025 and has stated that the complainant has failed to establish any violation of the provisions of RERA, and Section 31 clearly defines the scope of maintainability of a complaint. The respondent has stated that the complainant had booked Flat No. 3003 in Tower 4 (30th floor) in the project "Godrej Ascend - Phase I" vide application form dated 16-08-2022 for a total sale consideration of Rs.68,00,000/- and paid a booking amount of Rs.6,80,000/-. To finance the purchase, the complainant independently approached lenders for a housing loan, which was declined due to his ineligibility. Consequently, vide emails dated 01-03-2023, 09-03-2023, and 24-03-2023, the complainant sought refund of the booking amount. Considering his request for cancellation, the respondent, vide emails dated 02-03-2023 and 06-06-2023, informed him that 10% of the total consideration amount would be forfeited in accordance with Clause 8 of the application form. The respondent has stated that it cannot be made to suffer loss due to the complainant's inability to meet his financial obligations, as it has incurred costs towards construction, administration, and marketing, and has also suffered opportunity loss. The complainant, having signed the application form with full knowledge of its terms and conditions, cannot now dispute its applicability. Hence, the respondent has denied all allegations and prayed that the complaint be dismissed with costs.

7. The MahaRERA has examined the rival submissions and the record. The complainant, claiming to be an allottee in the said project registered by the respondents, by filing this complaint under section 31 of the RERA, has approached

the MahaRERA seeking refund, interest, and compensation under the provisions of the RERA. The complainant has contended that the respondent has forfeited the entire booking amount of Rs. 68,00,000/- upon cancellation of the said booking which is illegal.

8. The respondent has refuted these claims, stating that the complainant has sought cancellation of the said booking due to his own personal reason and hence, it is entitled to forfeit the entire booking amounts paid by the complainant as per the terms and conditions of the said booking done vide a booking application form dated 16-08-2022.

9. Be that as it may, in the present case, upon perusal of the submissions made by both the parties and record, the following observations are noteworthy:-

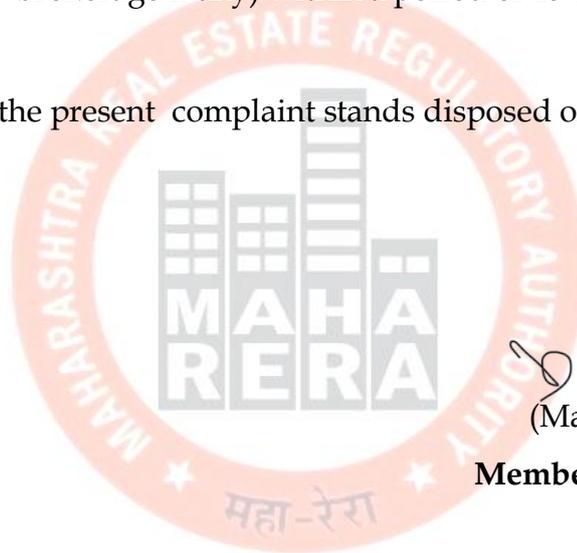
- i) The complainant booked the said flat as per the booking application form dated 16-08-2022 and paid an amount of Rs. 6,80,000/- , out of the total consideration amount of Rs. 68,00,000/-, which constitutes approximately 10% of the total consideration value of the said flat.
- ii) The complainant has claimed that he sought cancellation of the said booking within 45 days from the date of booking due to personal reasons. However, he has failed to place on record any cogent documentary evidence before MahaRERA to substantiate such a claim. On the contrary, as per the documentary proof submitted by the respondent, it appears that the complainant sought cancellation of the said booking only in March 2023, which is beyond the stipulated period of 60 days from the date of booking.
- iii) Admittedly, the complainant has failed to demonstrate any violation of Section 18 of RERA that would entitle him to a refund along with interest and compensation.
- iv) Furthermore, the complainant has not established any violation of Section 12 of RERA by the respondent. There is no evidence to show that the respondent provided any false information or made any misrepresentation causing loss to the complainant. Therefore, the

claim for refund along with interest and compensation is devoid of merit under Section 12 of RERA.

- v) In the present case, as stated hereinabove, the cancellation of the said booking was sought by the complainant on his own personal reason and not due to any default on the part of the respondent. However, the respondent's claim of entitlement to forfeit nearly 10% of the total consideration amount, purportedly in accordance with the terms and conditions of the booking/application form, requires examination as to whether such forfeiture is proportionate and permissible under RERA and the prevailing MahaRERA Circular on forfeiture
- vi) In this regard, the MahaRERA is of the considered view that such forfeiture of 10% of the total consideration, as claimed by the respondent, is neither legal nor justified under the provisions of the RERA. However, any forfeiture must be in compliance with the statutory framework of RERA and cannot be arbitrary or disproportionate.
- vii) In this regard, it is pertinent to note that the MahaRERA has recently issued an Order No. 35/2022 dated 12-08-2022 with respect to the prescribed format of allotment letter, which permits the promoter to forfeit 2% amount in case of any cancellation done by the allottee. Although the aforesaid MahaRERA order is issued recently (in the year 2022), however, earlier there was no prescribed format of allotment letter issued by the MahaRERA. Now the settled principle for cancellation of the booking (before the execution of agreement for sale is executed) has been prescribed by the MahaRERA by way of such order and action on the part of the respondent for forfeiture of 10% such amount paid by the complainant is not in consonance with the said circular dated 12-08-2022 issued by MahaRERA. Since this project is registered with the MahaRERA, the said MahaRERA Order can be made applicable while deciding such cases on merits. Moreover, the respondent has not uploaded any deviation report to the said MahaRERA Order dated 12-08-2022 on the MahaRERA website.

Hence, the claim of the respondent that the said MahaRERA order is not applicable to the present case, has no legal substance.

10. In view of these facts, the following order is passed:
- This complaint is partly allowed.
 - The claim of interest sought by the complainants along with the refund amount stands rejected for want of merits as stipulated in the aforesaid para-no.9 (iii) and (iv).
 - The respondent is directed to refund the money paid by the complainants towards the consideration of the said flat without any interest, after deducting 2% of the total consideration (value) of the said flat (excluding the statutory dues paid to the government/ brokerage if any) within a period of 45 days from the date of this order.
11. With these directions, the present complaint stands disposed of.




(Mahesh Pathak)

Member - 1/MahaRERA