

MREAT recognizes promoter and upholds privity of contract on the basis of email correspondence with allottees

The Maharashtra Real Estate Authority held two developers (“**Respondents**”) jointly and severally liable as promoters of a project named and branded under the name of one of the developers.

The central facts of the case are as follows:

- (i) The original complaint was filed under Section 18 of the Real Estate (Regulation and Development) Act, 2016 by the Appellants seeking refund of all the monies paid since booking the flat, along with interest and compensation thereon as possession was not handed over to them by December 2021 as advertised.
- (ii) While no agreement for sale was executed with the Appellants, the receipts for all the monies paid by the Appellants were issued by one of the developers, being Respondent No. 2 under the Appeal.
- (iii) Thus, counsel for the Respondents submitted that there was no privity of contract with the other developer, being Respondent No. 1 and the project was merely branded under its name, thereby claiming wrongful joinder of Respondent No. 1 as party to the complaint and the Appeal.

The Hon’ble Member, Mr. S.S. Sandhu *inter alia* observed that:

- (i) A letter dated 18 January 2017 was issued to the Appellants by Respondent No. 1 to welcome them to the project; and



- (ii) A detailed, reasoned email dated 3 June 2019 was addressed to the Appellants by Respondent No. 1 providing explanations to several queries raised by the Appellants in respect of *inter alia* the aforesaid project etc.

Accordingly, the Hon’ble Member concluded that the project was not merely branded under the name of Respondent No. 2.

Respondent No. 2 was, in fact, closely and integrally associated with the project and hence cannot deny privity of contract to dissociate itself from any liability that may arise from contractual obligations relating to the project.

In view of the above, Respondent No. 2 was held to be a promoter of the project and would be liable as such.

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