

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC005000000000007

Mahadeo Nalawade ...Complainant.

V/s

APL Yashomangal Developers. Respondents.

MahaRERA Regn. : P52100001020

Hon'ble Shri B.D. KAPADNIS.
(Member & Adjudicating Officer)

20th November 2017

Final Order

The Complainant has filed this complaint under Section 18 of Real Estate (Regulation and Development) Act, 2016 for getting interest and compensation on his investment made by him for purchasing a flat No.203, A Wing of Respondent's Alfa Greenfields Project located at Vadgoan Maval, Pune.

2. The Complainant contends that he purchased the above mentioned flat from the Respondent and the Respondent agreed to deliver its possession by 31st December 2013. It failed to deliver the possession as agreed and therefore, because of delayed possession he claims interest/compensation on his investment.

3. He has also complained that the Respondent failed to adhere the sanctioned plan and project specification as the Respondent constructed balconies for one BHK flats and failed to supply amenities like water supply, Solar water heating system.

4. Following points arise for consideration. I record my findings thereon as under:



POINTS.**FINDINGS.**

- | | |
|--|-------------------------|
| 1. Whether the complainant is entitled to get Interest/compensation on his investment because of the delayed possession? | No |
| 2. Whether the Respondent has failed to adhere to sanctioned plan and project specification? | Not pressed. |
| 3. What order? | Complaint is dismissed. |

Reasons:

5. The Respondent has denied complainant's allegation that it failed to give the possession of the Complainant's flat. According to it, the Complainant has been possessing the flat from November 2015 and the fit out possession has been given in March 2015 itself. The Complainant Mr. Nalawade admits these facts. However, his submission is, he wants interest/compensation for the delayed period from 01.04.2014 till March 2015 when he received the fit out possession.

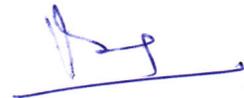
6. In this context the Respondent has brought to my notice the order of this Authority passed in Complaint No. CC006000000000417 of 27th October 2017. In that case the possession was taken by the Complainant on 20th April 2017 and therefore, this Authority has taken the view that the complaint does not fall under the jurisdiction of the Authority and therefore dismissed the complaint. I find that Section 18 of RERA empowers the allottee to get interest or compensation as the case may be in case of delayed possession only when the cause of action survives when the Act has come into force on 1st May 2017. Here in this case, the fit out possession has been given on March 2015 and the Complainant has been residing in the flat from November 2015. Therefore, the cause of action to claim compensation for the delayed possession did not survive on 01/05/2017 when the Act came into force. Since the possession is given, Section 18 of RERA will have no role to play. In this situation, I find that

the complaint is not maintainable under Section 18 of the Act and it will have to be dismissed.

7. So far as the Complainant's allegation falling under Section 14 of the Act is concerned, he submits that he and other allottees have collectively filed Complaint No.CC00600000000026 which is pending before me. He wants to press this issue in the said complaint. Therefore, he does not press this issue. Since the Complainant does not press this issue, I answer it negative and proceed to pass following order.

ORDER

Complaint is dismissed.


20-11-17

Mumbai
Date: 20.11.2017.

(B.D. Kapadnis)
(Member & Adjudicating Officer)
MahaRERA, Mumbai