

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO : CC006000000001241

Nitin Shah Complainant

COMPLAINT NO : CC006000000001243

Bhupendra Vira Complainant

COMPLAINT NO : CC006000000001244

Sheela Vira Complainant

COMPLAINT NO : CC006000000001246

Manoj Votavat Complainant

COMPLAINT NO : CC0060000000012367

Manoj Mehta Complainant

COMPLAINT NO : CC0060000000012404

Rajesh Mehta Complainants
Nisha Mehta

COMPLAINT NO : CC0060000000012408

Rajesh Jain Complainants
Umesh Jain

VERSUS

Sea Princess Realty
MahaRERA Regn. No. P51800001115 ... Respondent

Corum:
Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants were themselves present
Respondent was represented by Adv. Avinash Pawar, Adv. Tejas Shah

Order

January 16, 2018

1. The Complainants, in their above mentioned seven complaints, have stated that they have purchased apartments in the Respondent's Project 'GUNDECHA TRILLIUM'



situated at Borivali by executing various registered agreements for Sale, executed and registered in the period ranging from October 2013 to February 2014, pursuant to which the Respondent was supposed to handover possession of the said apartments by December 31, 2016. However, the Respondent has failed to handover possession of the said apartments and the amenities in the stipulated time, as mentioned in the said agreements for sale. Further, they stated the Respondent has collected up to 91% of the consideration amount for the said apartments, prior to 2015.

2. The advocate for the Respondent explained that the Respondent has not collected any amounts from the Complainants for the common amenity, club house, as mentioned in the said agreement. Further, he added that the amount for such amenity will only be collected from the Complainants at the time of handing over the same.
3. Further, he tried to explain that the construction work of the project could not be completed in the time as stipulated in the agreements for sale because of reasons which were beyond the Respondent's control and these reasons are covered in the terms and conditions of the said agreements. He argued that the timelines for handing over possession of the said apartments will have to be read with the provisions as stipulated under Clause 22 of the said agreements. Specifically, he argued that the said clause stipulates that the Respondent is entitled to reasonable extension of time for giving delivery of said apartment in the event of strikes, civil commotion, war, national or international happenings, labour problems, or any Act of God such as earthquake, flood or any other natural calamity/reason and acts or other clauses or any notice, order, rule or notification of the Government and/or any other public or Competent Authority or of the Court. On being asked to mention specific reasons that caused delay, he mentioned that demonetisation, implementation of GST and delay in receiving timely approvals from Authorities as the prime reasons for the delay in completing the construction work of the said project within the stipulated period.
4. He also stated that the Respondent has already received Occupancy Certificate from the concerned local authority during the course of the hearing of these complaints and that they have already requested the allottees to take possession of their apartments.
5. When the advocate for the Respondent was asked to explain the delay, with specific reasons in a tabular form, he sought an adjournment of another 15 days to submit the same. The Respondent has already been given ample opportunity, during the course of multiple hearings, for explaining the said delay, which he has failed to provide and




therefore, any further adjournment is not in the interest of the Complainants. Various opportunities were given to the Respondent to amicably settle the matter with the Complainants. However, the Respondent chose to ignore the same.

6. Section 18 (1) of the Real Estate (Regulation and Development) Act 2016 (hereinafter referred to as the *said Act*) reads as:

"if the promoter fails to complete or is unable to give possession of an apartment, plot or building, – (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein;

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed. "

7. The arguments made by the advocate for the Respondent and the reasons given by him for the delay in handing over possession of the said apartments, are general in nature. On the basis of the arguments made by the advocate for the Respondent, a maximum period of six months' delay may be allowed to be condoned but certainly a delay of six months is attributable to the Respondent, for which he is liable to pay interest on delay as per Section 18 of the Act. It is also clear that an amount of up to 90% of the consideration amount for the said apartments have been collected by the Respondent, prior to 2015, from the Complainants.
8. In view of the above facts, the Respondents are liable to pay interest at the rate of 10% for a period of six months, to the Complainants, on the total consideration amounts paid by the Complainants to the Respondent prior to December 2016, as per the provisions of Section 18 of the said Act.
9. Complainants are advised to take possession of the said apartments within 30 days from the date of this Order, since the Occupancy Certificate for the same has already been obtained by the Respondent. While making payments of the balance amount to the Respondent at the time of taking possession, the Complainants shall be entitled to adjust the amount as stipulated in para 8 above.
10. Consequently, the matters are hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA