

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC005000000011908

Haladhar Mahato ... Complainant

Versus

Satish Bora and Associates
MahaRERA Regn. No. P52100005544 ... Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented by Mr. Anand Mamidwar, Adv.

Respondent was represented by Mr. Pankaj Bora, Authorised representative.

Order

January 01, 2019

1. The Complainant has purchased an apartment in the Respondent's project 'LIBERO' situated at Haveli, Pune via registered agreement for sale dated February 26, 2014. The Complainant has alleged that the date of possession as stipulated by the said agreement is long over. Therefore, he prayed that since the Respondent has failed to hand over the possession of the apartment within the stipulated period, they be directed to refund the entire amount paid along with interest and compensation as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*).
2. On the first date of the hearing, the authorised representative for the Respondent explained that the construction work of the project could not be completed because of reasons which were beyond the Respondent's control. Further, he submitted the project has now been completed. He added that the Respondent thereafter sought Occupancy Certificate from the Competent Authority. Further, since the Competent Authority failed to decide the same in the stipulated time, the Respondent has already submitted application for deemed occupancy certificate with the concerned local authority, in accordance with the relevant provisions. He also submitted the



Respondent has filed a writ petition in the Hon'ble Bombay High Court against the concerned local authority for delay in issuing the occupancy certificate and the same is still pending. He further submitted that the Architect's certificate of completion of the project has already been uploaded on the registration webpage of the project, in Form 4 and the Respondent shall offer possession to the Complainant at the earliest. The parties then sought time to resolve the matter amicably.

3. On the next date of hearing the parties submitted that they could not reach to an amicable settlement.

4. Section 18 (1)(a) of 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;

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: 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. "

Simple present tense used in the starting line of Section 18 clearly indicated that the provision shall apply only till the project is incomplete or the promoter is unable to give possession. Once the project construction is complete or possession is given, as the case may be, the said provision ceases to operate.

5. In view of the above facts, the provision regarding interest on delay to the Complainants, as per section 18 of the Real Estate (Regulation and Development) Act, 2016, shall not apply. The Respondent is directed to handover possession of the apartment within 15 days from the date of this Order.

6. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA