

THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI
COMPLAINT NO. CC00600000044153

RAKESH MOHAN BADHE ... Complainant.

VERSUS

UNMESH MANOHAR JOSHI ... Respondents.

M/s. Kohinoor Developers.

MahaRERA Regn: - P 51800003258

Coram ... Shri B.D. Kapadnis
Hon'ble Member & Adjudicating Officer.
Appearance:

Complainant: Mr. Karthik S. Iyer.
Respondent: Mr. Ravindra Dalavi

Final Order
12th June 2018

The Complainant contends that he and his wife Dr. Rashmi Rakesh Badhe booked flats Nos. 13051 & 13052 in respondents' registered Project Kohinoor City, Mumbai. The respondents agreed to hand over the possession of the said flats on or before 31st December 2016. However, they failed to deliver the possession of the flats on the agreed date. The complainant and his wife want to continue in the project and therefore they claim interest on their amount for every month of delay till they get the possession of their flats.

2. The Respondents have not filed any reply. I heard both the parties. It is submitted on behalf of the respondents that some amount is due from the complainant and they are also entitled to recover it from complainant with interest. Both the parties seek permission to allow set off of their claims.

3. Following points arise for determination. I record my findings thereon as under:



Points	Findings
1) Whether the respondent failed to deliver the possession of the booked flats on the agreed date?	Affirmative
2) Whether the complainants and his wife are entitled to get the interest at prescribed rate for every month of delay on their amount till they get the possession of the flats?	Affirmative

REASONS

4. Section 18 (1) (a) of Real Estate (Regulation & Development) Act, 2016 provides that if the promoter fails to complete or is unable to hand over the possession of apartment in accordance with the terms of Agreement for Sale or duly completed by the date specified therein, then if the allottee does not intend to withdraw from the project, the promoter becomes liable to pay him the interest for every month of delay on his amount till the possession is handed over at the prescribed date. Complainant wants to continue in the project and therefore under this provision he and his wife are entitled to get interest on their amount. In view of this provision the complainant claims interest on their amount.

5. The complainant has produced the Agreement for Sale showing that the respondents agreed to hand over the possession of the booked flats on or before 31st December 2016. The respondents have not disputed the fact that they have not handed over the possession of the flats till the date of the complaint. Hence I hold that the respondents have failed to hand over the possession of the flats on the agreed date.

7. The complainant has produced the payment format of Flat Nos.13051 and 13052 wherein he has mentioned the tax deducted at source. The complainant wants the possession of the flats, the tax deducted at source mentioned in the payment format is the income tax .*These amount have been credited in the income tax account of the respondents. Complainant paid Rs.

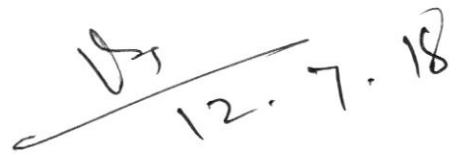


1,64,346/ towards TDS of flat no. 13051 and Rs. 1,68,441/ towards TDS of flat no. 13052. I find that the complainant has paid Rs.1,38,55,220/- in respect of Flat No.13051 and Rs.1,50,29,594/- in respect of flat No. 13052. The complainant and his wife have therefore entitled to get interest on these amount from the date of default i.e. from 1st January 2017 till they get the possession of the flats. The prescribed rate of interest is 2% above the highest MCLR of State Bank of India which is currently 8.05%. The complainant is entitled to get Rs. 20,000/- towards the cost of complaint.

ORDER

- A. The respondent shall pay simple interest on *Rs.1,40,15,566/- in respect of Flat No.13051 and on *Rs.1,51,98,035/- in respect of Flat No. 13052 @ 10.05% p.a. from 01.01.2017 for every month of delay till handing over of possession of the booked flats.
- B. The respondent shall pay the complainant Rs. 20,000/- towards the cost of the complaint.
- C. Parties are allowed to set off their respective claims.

Mumbai
Date: 12.06.2018


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

* Corrected as per the order passed on complainant's application filed for rectification/s. 39 of RERA.