

**THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAL.
COMPLAINT NO: CC006000000044352.**

Mr. Sanjay Bhaskar Kale

... Complainant.

Versus

Ravindra Shankar Sawant
(Vidya Sagar Villa)

... Respondents.

MahaRERA Regn: P99000008038

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

Appearance:

Complainant: In person.

Respondents: Mr. Manoj Sharma.

FINAL ORDER

10th July 2018.

The complainant has filed this complaint to claim interest on his investment under Section 18 of Real Estate (Regulation and Development) Act, 2016 for respondents' failure to hand over the possession of his booked flat no. A-203, Vidya Sagar Villa situated at Palghar, on the agreed date 30.09.2015 for every month of delay.

2. Respondents have not pleaded guilty. They have filed their reply to admit that the complainant has paid them Rs. 17,00,000/- towards the consideration amount. However, they deny their liability to pay him interest on it by contending that the project is delayed because of some reasons which were beyond their control, namely the delay in getting permission to make the construction and shortage of sand etc. According to them, they have completed the project and applied to the Gram panchayat in March 2016 for allocation of the house number to the flat. On



08.06.2018 they sent a letter to the complainant to take the possession of the flat but the complainant has refused to take the possession on false and flimsy grounds, therefore, they request to dismiss the complaint.

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

POINTS	FINDINGS
1. Whether the respondents failed to hand over the possession of the booked flat on the agreed date?	Affirmative.
2. Whether the complainant is entitled to get Interest on his investment, on the respondents failure to deliver the possession of the flat on the agreed date?	Affirmative.

REASONS

4. The complainant has produced the agreement dated 14th January 2016 showing that the respondents agreed to deliver the possession of the booked flat on 30.09.2015. According to the complainant, he paid Rs. 17,00,000/- out of 20,00,000/- in the year 2015 itself because of the respondents promise to deliver the possession of a flat in September 2015. However, they did not deliver the possession as agreed and thereafter the agreement for sale has been executed on 14th January 2016 mentioning the same agreed date of possession. The respondents submit that it is clerical mistake because in the agreement executed on 14th January 2016, the back date of possession would not have been mentioned. However, they have not produced any cogent evidence like an affidavit to counter the contents of the agreement for sale which are to be accepted as they are under Section 92 of the Indian Evidence Act. Hence, I believe that the real agreed date of possession was 30th September 2015. I record my finding to this effect. Admittedly, the respondents have not delivered the possession of a flat on the agreed date. Hence I also record my finding to this effect.



5. It appears from the documents placed by the respondents on record that they applied to the Gram panchayat for allocation of house number to the booked flat of the complainant. But it appears that the gram panchayat has not allotted any number to the flat. In fact, the occupation certificate or completion certificate is necessary. The respondents have not obtained for either occupation certificate or completion certificate and therefore, in the absence of any of such certificate, the allottee cannot be compelled to occupy the flat. Hence, I find no fault with the complainant when he has refused to take the possession of the flat offered by the respondents by their letter dated 08.06.2018.

6. The complainant is entitled to claim interest on his investment on respondents' failure to hand over the possession of the booked flat on agreed date under Section 18 of RERA. Therefore, the complainant has filed payment format marked Exh. 'A' showing that he paid the respondents Rs. 17,00,000/- towards the consideration of the flat. Thus, I hold that the complainant is entitled to get simple interest on Rs. 17,00,000/- at the prescribed rate which is 2% above SBI's highest MCLR which is currently 8.5%, from the date of default till receiving the possession of the flat together with Rs. 20,000/- towards the cost of the complaint. Hence, the order.

ORDER

The respondents shall pay simple interest at the rate of 10.5% on Rs. 17,00,000/- from 15.07.2015 till handing over the possession of the booked flat for every month of delay.

The respondents shall pay the complainant Rs. 20,000/- towards the cost of the complaint.

Mumbai.

Date: 10.07.2018.


10-7-18
(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.