

**THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI.**

**COMPLAINT NO: CC006000000056826.**

Shekhar K. Mahalaxmika

... Complainant.

**Versus**

Vidhi Realtors  
(Gaurav Discovery)

... Respondents.

MahaRERA Regn: P51800007949.

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


**Appearance:**

Complainant: In person.

Respondents: Adv. Krishna Agarwal  
a/w Jinam Shah.

**FINAL ORDER**  
**5<sup>th</sup> February 2019.**

The complainant alleges that the respondents are of guilty of indulging in unfair practice by contending that he booked flat no. 904, G-wing of respondents' registered project 'Gaurav Discovery-II' situated at Malad (West). Since the respondents failed to hand over the possession on agreed date, the matter was taken to the Conciliation Forum in conciliation request no. CR006/152 by the consent of both the parties. They settled the matter and filed the consent terms whereby the respondents agreed to pay complainant Rs. 36,28,812/- in six equal instalments starting from 10.07.2018 till 10.12.2018. The respondents honoured only one cheque deposited on 10.08.2018, out of six cheques. The complainant received Rs. 6,04,802/- only. However, pending the complaint, he received one more instalment of Rs. 6,04,802/-. He prays for refund of the balance amount

  
5.2.19


with interest. The complainant admits that he has received Rs. 12,08,604/- until now.

2. The respondents have pleaded not guilty but they have failed to file the reply.

3. Whether the respondents have indulged in unfair practice by not refunding the complainant's amount though promised in the conciliation proceeding? is the question to be answered. I answer it in affirmative for the following reasons:

4. The respondents have not disputed the fact that the consent terms were signed by the both parties in conciliation request no. CR006/152 on 2<sup>nd</sup> June 2018. The respondents agreed to make payment of Rs. 36,28,812/- in six equal instalments starting from 10.07.2018 till 10.12.2018. Three cheques were not honoured and therefore, the complainant did not present the two cheques. These facts are not disputed. They are sufficient to indicate that the respondents after entering into the consent terms, gave cheques for refunding the complainant's amount and honoured only one cheque out of six. Even after 10.12.2018, they have not cleared the cheques. This amounts to unfair practice within the meaning of section 7 of RERA. The complainant admits that the pending the complaint, he received one more instalment, thus he has received Rs. 12,08,604/- until now.

5. In the facts and circumstances of the case, it is necessary to pass order under section 7(3) of RERA to direct the respondents to make the payment of balance amount with interest at prescribed rate from the date of the consent terms. The prescribed rate of interest is 2% above the SBI's highest MCLR which is currently 8.55%. The complainant is also entitled to get Rs. 20,000/- toward the cost of the complaint. Hence, the following order.

  
5-2-19

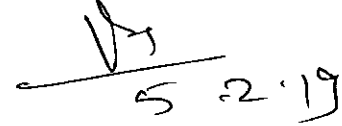
### ORDER

The respondents shall pay the complainant Rs. 24,20,208/- with interest at the rate of 10.55% from 2<sup>nd</sup> June 2018 till the refund.

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

Mumbai.

Date: 05.02.2019.



( B. D. Kapadnis )

Member & Adjudicating Officer,  
MahaRERA, Mumbai.

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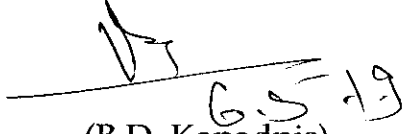
**Coram:** Shri B.D. Kapadnis,  
Hon'ble Member & Adjudicating Officer.

**ORDER ON THE RECOVERY APPLICATION FILED IN COMPLAINT.**

The complainant reports non-compliance of the order passed in the matter. The respondents have failed to appear to show cause as to why recovery warrant should not be issued.

2. Hence, issue recovery warrant under Section 40(1) of RERA against the respondents.
3. The complainant to produce the statement payment showing the amount which has become due.

Mumbai.  
Date:06.05.2019.

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