

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

Complaint No: CC00500000000029

1) Sayali Vivek Mahajan
2) Mahajan Vivek Damoder ... Complainant.

Versus

1) Marvel Promoters And Developers
(Pune) Private Limited ... Respondents.
(MARVEL BRISA, PUNE)

MahaRERA Regn: -P52100001627.

Complainants: In Person.

Respondents: Mr. D. Karthick, present a/w Mr.Javed Shaikh, Adv.

Complaint No: CC005000000000178

Abhijit Agashe ... Complainant.

Versus

1. Marvel Promoters And Developers
(Pune) Private Limited
2) Mahesh Bansilal Laddha
3) Vishwajeet Subhas Jhavar ... Respondents.
(MARVEL BRISA, PUNE)

MahaRERA Regn: -P52100001627

Complainants: In Person.

Respondents: Mr. D. Karthick, present a/w Mr.Javed Shaikh, Adv.

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.
Common Final Order.
03rd January 2018.

These complaints have been filed under section 18 of The Real Estate
(Regulation & Development) Act, 2016.



2. Mr. Vivek Mahajan booked Flat No. B-802 and Mr. Abhijit Agashe booked Flat No. A-1401 in the respondents' Marvel Brissa Project situated at Balewadi, Pune. The respondents agreed to deliver the possession of these flats on or before 30th June, 2016. However, they have failed to deliver the possession of the said flats on the agreed date. Therefore, the complainants want to withdraw from the project and they demand their amount back with interest.

3. The respondents have pleaded not guilty but they have not filed any explanation/reply.

4. Following points arise for determination. I record findings thereon as under:-

Points.	Findings.
1. Whether the respondents have failed to deliver the possession of the complainants' flats on the agreed date of possession?	Affirmative.
2. Whether the complainants are entitled to get refund of their amount with interest under Sect.18 of RERA?	Affirmative.

REASONS

5. There is no dispute on the point that the complainants booked the above numbered flats and the respondents agreed to deliver their possession on or before 30th June 2016. The respondents have not delivered the possession of these flats till the date of complaints. In this circumstance, both the complainants have exercised their right to withdraw from the project and claim refund of their amount with interest under section 18 of The Real Estate (Regulation and Development) Act, 2016, hereinafter referred to as RERA. The respondents have not filed any explanation to explain the delay. I hold that the respondents have



failed to deliver the possession on the agreed date and there was no excuse for making the delay.

6. Section 18 of RERA entitles an allottee to get refund of his amount with interest at the prescribed rate from the dates of the payment. The complainants have filed their statements of payment marked as Exhibit 'A' for the purpose of identification. The respondents have not disputed the receipt of payments mentioned in these statements. Therefore, the respondents are liable to refund the amount mentioned in the statements to the complainants.

7. It has been submitted on behalf of the respondents that the stamp duty has been paid by the complainants by purchasing stamps in their names. On the cancellation of agreement for sale, complainants are entitled to get back the stamp duty. Hence, I hold that the respondents are not liable to pay the amount of stamp duty incurred by the complainants for purchasing stamps. The respondents have defaulted in delivering the possession of the flats. Hence the complainants cannot be made liable to sustain the loss on account of the registration fee paid by them. Respondents will have to reimburse it.


8. Complainants are entitled to get refund of their amount with interest as per section 18 of the Act. The prescribed rate of interest is currently 8.05% + 2%. The complainants are therefore entitled to get simple interest at this rate from the dates of their payment together with Rs. 20,000/- towards the cost of their complaints. Hence, the order.

ORDER.

1. The respondents shall refund the amount mentioned in Exhibit 'A' to the complainants with the interest @10.05% from respective dates of payments except the amount of Stamp Duty. The statements marked exhibit 'A' shall form the part of this order.



- 2) The respondents shall pay each complainant Rs. 20,000/- towards the cost of the complaints.
- 3) The charge of the above mentioned amount shall be on the flats booked by the complainants till satisfaction of their claims.
- 4) On satisfaction of their claims, the complainants shall execute the deed of cancellation of their agreements for sale at respondents' cost.


3.1.18

(B.D. KAPADNIS)

Member & Adjudicating Officer,
MahaRERA, Mumbai.

Mumbai
Date: 03.01.2018

Exp-A

C-178

Milestone/Work status	Invoice Date	Invoice Amount	Amount Payable (less 1% TDS)	Due date considering payment period of 20 days	Date of Receipt by Marvel	Total Received	Payment Mode	Cheque No	Description	Excess/Shortfall	No of Days till March 31st 2017	No of Days From 1st April 2017	Amount
Holdin Amount	08/03/2014	700,000.00	690,850.44	28/03/2014	08/03/2014	690,850.44	Cheque	836034	Ch.836034Dt07.03.2014HDFCBANK R.No.201403080050	-	1119	231	234,996.09
Booking	19/03/2014	3,640,000.00	3,602,250.29	08/04/2014	08/03/2014	9,149.56	Cheque	836034	Ch.836034Dt07.03.2014HDFCBANK R.No.201403080050	3,593,100.73	1119	231	3,112.27
			3,593,100.73	08/04/2014	14/05/2014	1,842,146.73	Cheque	13	Ch.000013Dt10.05.2014HDFCBANK R.No.2014051405140018	1,750,954.00	1052	231	596,181.77
			1,750,954.00	08/04/2014	14/05/2014	1,750,954.00	Cheque	13			1052	231	566,668.68
1st slab	19/03/2014	728,000.00	720,450.06	08/04/2014	14/05/2014	720,450.06	Cheque	13			1052	231	233,162.31
2nd slab	19/03/2014	728,000.00	720,450.06	08/04/2014	14/05/2014	720,450.06	Cheque	13			1052	231	233,162.31
3rd slab	22/05/2014	728,000.00	720,450.06	11/06/2014	03/06/2014	720,450.06	Cheque	16	Ch.000016Dt03.06.2014HDFCBANK R.No.201406030002		1032	231	229,609.41
4th slab	01/06/2014	728,000.00	720,450.06	21/06/2014	17/06/2014	720,450.06	Cheque	19	Ch.000019Dt16.06.2014HDFCBANK R.No.201406170007		1018	231	227,122.37
5th slab	24/06/2014	728,000.00	720,450.06	14/07/2014	08/07/2017	720,450.06	RTGS				-99	231	28,692.66
6th slab	05/07/2014	728,000.00	720,450.06	25/07/2014	24/07/2014	720,450.06	RTGS		RTGSDt24.07.2014R.No.201407240033		981	231	220,549.50
7th slab	18/07/2014	728,000.00	720,450.06	07/08/2014	05/08/2014	720,450.06	RTGS		RTGSDt05.08.2014R.No.2014080		969	231	218,417.76
8th slab	01/08/2014	728,000.00	720,450.06	21/08/2014	20/08/2014	720,450.06	RTGS		RTGSDt20.08.2014R.No.201408200061		954	231	215,753.08
9th slab	16/08/2014	728,000.00	720,450.06	05/09/2014	03/09/2014	597,777.48	RTGS		RTGSDt03.09.2014R.No.201409030031	122,672.58	940	231	176,952.78
			122,672.58	05/09/2014	03/09/2014	122,672.58	RTGS				940	231	36,313.27
10th slab	29/08/2014	728,000.00	720,450.06	18/09/2014	16/09/2014	632,321.66	RTGS		RTGSDt16.09.2014R.No.201409170038	88,128.40	927	231	185,151.58
			88,128.40	18/09/2014	16/09/2014	88,128.40	RTGS				927	231	25,805.08
11th slab	12/09/2014	728,000.00	720,450.06	02/10/2014	30/09/2014	95,678.54	RTGS		RTGSDt30.09.2014R.No.201409300066	624,771.52	913	231	27,685.57
			624,771.52	02/10/2014	30/09/2014	624,771.52	RTGS				913	231	180,784.06
12th slab	24/09/2014	728,000.00	720,450.06	14/10/2014	14/10/2014	720,450.06	NEFT		NEFTDt14.10.2014R.No.201410140013		899	231	205,982.59
13th slab	09/10/2014	728,000.00	720,450.06	29/10/2014	28/10/2014	720,450.06	RTGS		RTGSDt28.10.2014R.No.201410280035		885	231	203,495.56
14th slab	20/10/2014	728,000.00	720,450.06	09/11/2014	07/11/2014	720,450.06	RTGS		RTGSDt07.11.2014R.No.201411070028		875	231	201,719.11
15th slab	08/11/2014	728,000.00	720,720.00	28/11/2014	27/11/2014	191,591.40	RTGS		RTGSDt27.11.2014R.No.201411270028	529,128.60	855	231	52,698.92
			529,128.60	28/11/2014	27/11/2014	529,128.60	RTGS				855	231	145,541.53
Brick work	27/01/2015	910,000.00	900,900.00	16/02/2015	16/02/2015	900,900.00	RTGS		RTGSDt27.11.2014R.No.201411270028		774	231	229,807.25
TOTAL		16,170,000.00	16,001,021.57			16,001,021.57							4,679,365.52

STAMP DUTY 08/03/2014 1,169,000.00

Service Tax Paid till date
VAT
TDS

17/12/2014 900,000.00
18/12/2014 269,000.00
08/03/2014 599,583.60
189,000.00
172,183.95

20/10/2017 1038 230,350.68
20/10/2017 1037 68,782.93
20/10/2017 1322 62,913.70
51,261.28

Interest calculated till date 17/11/2017

Total Amount paid to Marvel 18,130,789.12
Total Amount payable as per agreement 21,065,218.72

Interest payable by Marvel 5,270,953.64

9% Interest till date 31/03/2017
Interest rate till March 2017 9%
Interest rate from April 2017 (MCLR + 2%)- SBI MCLR = 10.15%
R 15%

Remaining Amount

5% on flooring 910,000.00
10% on Possession 1,820,000.00
MSEDCL on Possession 150,000.00
Legal charges on Possession 50,000.00
Club Membership on Possession 250,000.00
Society Fund 560,000.00
Additional work - Italian Marble across the apar 250,000.00
Total 3,990,000.00