

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC005000000010821

Sonali and Amit Patil

... Complainants

Versus

Benchmark Town Planning LLP
MahaRERA Regn.No. P52100000326

... Respondent

Corum:

Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was themselves present.

Respondent was represented by Ms. Shilpa Kapil, Adv.

Order

March 15, 2018

1. The Complainants have purchased an apartment bearing no. 704(E) in the Respondent's project 'SIROCCO GRANDE' situated at Mulshi, Pune via a registered agreement for sale dated February 6, 2016. The Complainants alleged that the date of possession as stipulated by the said agreement is December 2016 and that the Respondent has failed to handover possession of the said apartment, till date. Therefore, they prayed that the Respondent be directed to pay them interest for the delay in handing over possession.
2. The advocate for the Respondent explained how the construction work of the project has been delayed because of reasons which were beyond the Respondent's control and which are well stipulated in clause 8.2 of the agreement for sale (mainly sub clause (iv), (v) and (vi)). Further, she submitted that the Respondent has already applied to the concerned local authority for obtaining Occupancy Certificate for the said project and that the Respondent shall handover possession of the said apartment by May 2018.
3. The relevant portion clause 8.2 of the said agreement reads as thus:

8.2 If BTPLLP fails or neglects to give possession of the Premises to the Purchaser on the above referred date (subject to force majeure) or within any further date or dates as may be mutually agreed between the parties hereto, then in such case the Purchaser shall be entitled to give notice to BTPLLP




terminating this agreement, in which event BTPLLP, shall within three weeks from the receipt of such notice, refund to the Purchaser the amount of deposit or earnest money and the further amounts, if any, that may have been received by BTPLLP from the Purchaser as instalments in part payment in respect of the Premises along with the simple interest at the rate of 9% per annum from the date of receipt till repayment. BTPLLP shall also pay liquidated damages of Rs. 10,000/- (Rupees Ten Thousand Only) in respect of such termination and neither party shall have any further claim against the other in respect of the Premises or arising out of this agreement and BTPLLP shall be at liberty to dispose off the Premises to any other person or persons at such price and upon such terms and conditions as BTPLLP may deem fit.

Provided that BTPLLP shall be entitled to reasonable extension of time for giving delivery of the Premises on the aforesaid date, if the completion of the Building/s is delayed on account of:

- i. force majeure;*
- ii. non-availability of steel, cement, other building material, water or electric supply;*
- iii. war, civil commotion or act of God;*
- iv. any notice, order, rule, notification of the Government or other public, judicial or competent authority;*
- v. delay in any approvals;*
- vi. Other reasonable cause beyond the control of BTPLLP;*

4. The Complainants stated that they do not intend to withdraw from the project and accepted the revised timeline for receiving possession of the said apartment.
5. In view of the above facts, Respondent shall, therefore, handover possession of the said apartment, with Occupancy Certificate, to the Complainant before the period of May 31, 2018, failing which the respondent shall be liable to pay interest to the Complainant from June 1, 2018 till the actual date of possession, on the entire amount paid by the Complainant to the Respondent. The said interest shall be at the rate as prescribed under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017.
6. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA