

**BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
PUNE**

Complaint No.CC005000000011465

Rajan Tikko

.. Complainant

Versus

Prateek Agarwal

.. Respondent

**Coram : Shri M.V. Kulkarni
Hon'ble Adjudicating Officer**

Appearance :

Complainant : In person

Respondent : Advocate Santosh Bari

FINAL ORDER

07-12-2018

- 1.** The complainant who had booked a flat with the respondent/developer seeks interest on the money paid as there is delay in delivering possession of the flat without justifiable reason.
- 2.** As usual all the necessary details are lacking in the complaint. They are required to be fished out from the documents annexed to the complaint. The complainant had booked a flat No.206 in the project Village Residency-

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3 at Village Kasarsal Taluka Mulshi, District Pune of respondent on 7-10-2013. Agreement in respect of flat No.203 was executed on 12-01-2017. Price of the flat was fixed at Rs.19,44,700/-. Possession was promised on or before 12 months as per clause-14. The complainant paid Rs.11,00,000/- on 7-10-2013 and Rs.1,16,800/- on 1-8-2014. Though the date of possession was January, 2018 respondent is delaying possession.

3. This complaint was transferred to A.O. Pune on 8-8-2018. The respondent did not appear on that date. Respondent appeared on 5-9-2018. His plea was recorded. Respondent was permitted to file a written explanation on 5-10-2018 on payment of costs of Rs.1,000/- It is admitted that possession was agreed to be delivered within one year since the date of agreement dated 12-1-2017. It is alleged that the date is now revised to December, 2019. It is alleged that by decisions of Central Government like demonetisation and implementation of GST, the project was badly affected. Transactions with labour contractors, material suppliers and Local Government Bodies were halted. Said fact was explained to the complainant. However, complainant was coming and arguing regularly and interrupting the work. He sent mails. The respondent is paying monetary compensation of Rs.6000/- per month to the complainant for the delay and complainant is accepting that amount readily. No cause of action arose, therefore complaint deserves to be rejected.

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4. On the basis of rival contentions of the parties following points arise for my determination. I have noted my findings against them for the reasons stated below:

POINTS	FINDINGS
1. Have the respondents failed to deliver possession of flat to the complainant as per agreement without circumstances beyond their control?	Yes
2. Is the complainant entitled to the reliefs claimed?	Yes
3. What order?	As per final order.

REASONS

5. Point Nos.1 & 2: The complainant has placed booking form dated 7-10-2013 on record. He paid Rs.11,00,000/- by two cheques and booked flat No.203 in 'D' Wing having carpet area 452 + terrace 53 Sq.Ft. Rate per sq.ft. was Rs.2,690/- Infra charges were Rs.2,50,000/- stamp duty Rs.80,693/- registration charges Rs.20,173/- VAT Rs.20,173/- service tax Rs.62,335/-. Total payable amount was Rs.22,00,705/- which was revised to Rs.21,99,150/-
6. Agreement of sale dated 12-1-2017 is placed on record. It is in respect of flat No.206-A admeasuring 45.06 sq.mtr.

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plus 9 sq.mtr. The price agreed was Rs.19,44,700/-. As per clause-14 delivery of possession was on or before 12 months after receiving entire consideration and after obtaining completion / part completion certificate. Therefore admittedly the date of delivery of possession was 18-1-2018.

7. Respondent has alleged that due to demonetisation and GST implementation transactions were halted. The delay caused is due to circumstances beyond the control of the respondent. Demonetisation was effected on 8th Nov, 2016. When the agreement was executed on 12-1-2017 respondent was well aware of the difficulties arising out of demonetisation. Booking was done on 7-10-2013. More than 3 years had gone by since booking and making initial payment of Rs.11,00,000/- on 7-10-2013. Those receipts are placed on record. Further Rs.1,16,800/- were paid on 1-8-2014. GST proposal was in discussion since many years. Now the respondent cannot plead that delivery of possession was delayed due to such circumstances which he could not anticipate. Respondent agreed to the date of delivery of possession under those circumstances and after receiving considerable amount from the complainant. Consequently he failed to deliver possession as per agreement without there being circumstances beyond his control. I therefore answer point No.1 in the affirmative.
8. The complainant has placed on record above three receipts. There is further receipts for Rs.66,702/- dated 17-1-2017, for Rs.1,26,000/- dated 1-6-2017, for Rs.1,26,000/- dated 30-6-2017, for Rs.53,441/-(service

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tax) dated 30-6-2017, for Rs.1,94,470/- dated 26-10-2017, for Rs.23,336/- (GST) dated 26-10-2017. No receipt for Rs.1,46,300/- is there which were allegedly paid on 10-1-2017. That appears to be payment for stamp duty and registration charges. Complainant appears to have paid in all Rs.19,53,049/- to respondent. Date of delivery of possession under the agreement was 11-1-2018. Complainant will be entitled to recover interest under Rule-18 of Maharashtra Rules on the amount of Rs.17,29,972/- from 18-1-2018. I therefore answer point No.2 in the affirmative and proceed to pass following order.

ORDER

1. Respondent to pay interest to the complainant on Rs.17,29,972/- @ SBI highest marginal cost of lending rate + 2% i.e., @ 10.70 from 18-1-2018 till he delivers possession of the flat to complainant after obtaining occupancy certificate. The amount already paid shall be adjusted against this amount.
2. Respondent to pay Rs.20,000/- to the complainant as costs of this complaint.

Pune
Date :- 07.12.2018

M.V. Kulkarni
20.12.2018
(M.V.Kulkarni)
Adjudicating Officer,
MahaRERA