

COMPLAINT NO: CC005000000000369

## Versus

12-5

2. The respondents have pleaded not guilty. Respondents have not disputed the receipt of the amount paid by the complainants marked Exh. A to F. They contend that they are not liable to repay the amount spent on stamp duty, registration charges, service tax and VAT. According to them, they could not complete the project within time because there was recession in the 2014 and there was no sale of units. They have completed the construction to the extent of 85 to 90 % and they are ready to give possession of the flats on or before December, 2018. They further contend that they are ready to pay monthly compensation at the rate of Rs. 5,000/- to the complainants from January, 2017 till they deliver the actual possession of the flats. The complainants agreed to receive this monthly compensation and waived their right to cancel the agreement. They are entitled to get refund of their amount with interest only on the deed of cancellation of the agreement for sale is registered. Therefore, they request to dismiss the complaint.

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

<b>Points.</b>	<b>Findings.</b>
1. Whether the respondents have failed to : deliver the possession of the flats on the agreed date?	Affirmative.
2. Whether the complainants are entitled to : get refund of their amount with interest?	Affirmative.

### **REASONS.**

#### **Delayed Possession.**

4. The complainants have relied upon agreements for sale showing that the respondents agreed to deliver possession of the flats booked by them on or before December 2016 or within 2.5 years from the date of agreements whichever is later. However, the respondents have not delivered the possession of the flats till the date of complaint. Hence I hold that the complainants have proved that the respondents have failed to deliver the possession of the flats on agreed date.

**Reason of delay:**

5. The respondents contend that there was recession in the year 2014 and therefore, they could not sell units of the project to raise the funds for completing the project. I do not find this to be a valid reason.

**Legal Provision:**

6. Section 18 of RERA provides that if promoter fails to complete or is unable to give possession of an apartment on the date specified in the agreement and the allottee withdraws from the project, then he is entitled to get refund of his amount with interest from the date of its payment.

**Entitlement of the Complainants.**

7. The respondents have not disputed the payments made by the complainants which are reflected in their payment statements marked Ext. 'A, to F' for identification. They have contended that they are not liable to reimburse the amount spent by the complainants towards the stamp duty, registration charges and taxes as they are paid to the Govt. I find that out of the amount paid to the respondents the amount of stamp duty has been paid in the names of the complainants. The complainants are entitled to get the refund of the stamp duty paid in their names on cancellation of the agreements of sale. Therefore, the complainants cannot claim amount of stamp duty from the respondents. However, registration charges are not refundable. The complainants had to pay the taxes. Since the respondents have failed to deliver possession of the flats on the agreed dates, they are liable to reimburse the amount of registration charges and taxes. The complainants claim the other consequential expenses which cannot be separately allowed, if Rs. 20,000/- are awarded to them towards the cost of the complaint. Respondents have failed to prove that complainants waived their right to get refund with interest. Therefore, complainants are entitled to get back the above mentioned sums except the amount of stamp duty.

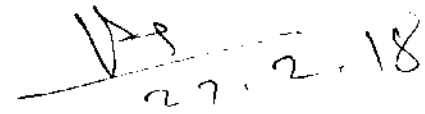
8. Complainants are entitled to get their amount with interest at the prescribed rate which is 2% above the State Bank of India's highest marginal cost of lending rate, it is currently 8.05%. This interest is compensatory in nature. Hence, I do not find it



necessary to award compensation separately because the ends of justice will be served if the interest at the prescribed rate is awarded. Hence, the following order.

**ORDER.**

1. Respondents shall pay the complainant nos. 1 to 6 the amounts mentioned in the payment statements marked Ext. A to F' respectively except the amount of stamp duty and other consequential expenses shown therein, with simple interest @ 10.05% from the date of their receipt till their repayment. Payment statements marked Ext. A to F shall form the part of the order.
2. The respondents shall pay complainants Rs. 20,000/- towards the cost of their complaint.
3. The respondents shall pay the above mentioned amount within 30 days from this order as per Rule 19 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects and Real Estate Agents, Rates of Interest and Disclosure on Website) Rules, 2017.
4. The charge of the aforesaid amount shall be on the respective flats booked by the complainants till their repayment.
5. On satisfaction of their claims, the complainants shall execute the deeds of cancellation of the agreements for sale, at respondents' cost.

 27.2.18

(B.D. KAPADNIS)

Member & Adjudicating Officer,  
MahaRERA, Mumbai.

Mumbai  
Date: 27.02.2018

Kavita chandan Rasal  
chandan Subhash Rasal

Ext. A

CC005000000000369

Padmanabh - Phase I

Flat Type	Wing / Flat No.	Total Carpet Area	Rate per Sq. Feet	Cost	Parking Type	Other Cost	Total Agreement Cost	Stamp Duty 6%	Registration Chgs	Service Tax 3.09%	VAT 1%	Maintenance Chgs
1 BHK	B2 / 501	541	3,300.00		No Parking	10,000.00	1,885,300.00	113,200.00	18,900.00	1,802.00	18,853.00	16,230.00

Kavita Chandan Rasal/Chandan Subhash Rasal

Payment Break-up

(Amt. in Rs.)

Sr.	Date of Payment	Bank Name	Cheque No & Date	Details of Payment	Basic Amount	Stamp Duty	Registration Charges	Service Tax @ 3.09%	VAT @1%	Total (A to E)
					A	B	C	D	E	F
1	19/03/2014	ICICI & Cosmos, Pune	252972 & 006461/14&19 MAR 2014	Booking+Part	58,319.00	113,200.00	18,900.00	1,802.00	18,853.00	211,074
2	31/10/2014	PNB, Pune	862800/31 OCT 2014	Booking+Part	507,271.00	-	-	15,675.00	-	522,946
3	29/12/2014	PNB, Pune	538879/ 29 DEC 2014	1st Slab	188,530.00	-	-	5,826.00	-	194,356
4	20/04/2015	PNB, Pune	203977/20 APR 2015	3rd Slab	188,530.00	-	-	5,826.00	-	194,356
5	03/05/2015	PNB, Pune	060917/03 JUNE 2015	5th slab	188,530.00	-	-	5,826.00	-	194,356
6	22/07/2015	PNB, Pune	061742/22 JULY 2015	7th slab	188,530.00	-	-	6,599.00	-	195,129
7	04/04/2015	PNB, Pune	449608/04 APR 2016	After Brick Work	188,530.00	-	-	6,599.00	236.00	195,365
				TOTAL	1,508,240.00	113,200.00	18,900.00	48,153.00	19,089.00	1,707,582

Ent B

|| Om Sai Samarth ||

Name : Mangesh P. Deshpande

Complaint No. CLO500000000369

Padmanabh - Phase I

Flat Type	Wing / Flat No.	Total Carpet Area	Cost	Parking Type	Other Cost	Total Agreement Cost	Stamp Duty 6%	Registration Chgs	Service Tax 3.09%	VAT 1%	Maintenance Chgs	Total Cost
2 BHK	A1 / 301	860	2,967,000.00	Open	275,000.00	3,242,000.00	194,520.00	30,000.00	100,502.00	32,420.00	25,800.00	3,625,242.00

(Rate / Sq. Feet - Rs. 3,450/-)

Payment Break-up

(Amt. in Rs.)

Sr.	Date of Payment	Bank Name	Cheque No & Date	Details of Payment	Basic Amount	Stamp Duty	Registration Charges	Service Tax @ 3.09%	VAT @1%	Total (A to E)
					A	B	C	D	E	F
1	20/03/2014	SBI,Nigdi	245880/20.03.14	10% Booking+Part	102,318.00	194,600.00	30,000.00	3,161.63	32,420.00	362,500
2	13/06/2014	HDFC,Pimpri	197287/13.06.14	10% Booking+Part	297,250.00	-	-	9,185.03	-	306,435
3	26/08/2014	SBI,Nigdi	245884/26.08.14	Booking+Plinth	249,297.00	-	-	7,703.28	-	257,000
4	03/02/2015	HDFC,Pune	586312/20.02.15	Plinth+1+3rd Slab	942,995.00	-	-	29,138.55	-	972,134
5	05/02/2015	HDFC,Pune	032734/02.05.15	Afr 5th slab	353,340.00	-	-	10,918.21	-	364,258
6	06/11/2015	HDFC,Pune	021624/10.06.15	Afr 7th slab	324,200.00	-	-	10,017.78	-	334,218
7	30/10/2015	SBI,Nigdi	01245/30.11.15	Afr Brick Wrk	324,200.00	-	-	11,347.00	-	335,547
				TOTAL	2,593,600.00	194,600.00	30,000.00	81,471.46	32,420.00	2,932,091

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**Mr.Dwarkadas Mahadeo Mule And Mrs. Shobha Dwarkadas Mule**

COMPIGATED CC00500000000000369

**Padmanabh - Phase I**

Flat Type	Wing / Flat No.	Total Shelable Area	Rate per Sq. Feet	Cost	Parking Type	Other Cost	Total Agreement Cost	Stamp Duty 6%	Registration Chgs	Service Tax 3.09%	VAT 1%	Maintenance Chgs	Total Cost
1 BHK	B1 / 305	559	3,350.00	18,72,650.00	Open	1,00,000.00	19,72,650.00	1,18,400.00	19,800.00	60,955	19,726.50	16,770.00	22,08,301.39

**Payment Break-up**

(Amt. in Rs.)

Sr.	Date of Payment	Bank Name	Cheque No.	Details of Payment	Cheque Amt.	Basic Amount	Stamp Duty	Registration Charges	Service Tax @ 3.09%	VAT @1%	Total (A to E)
						A	B	C	D	E	F
1	10-03-2014	ICICI, Shivajinagar	663807	20% Booking+Part	1,00,000.00		1,00,000.00	-	-	-	1,00,000
2	12-04-2014	ICICI, Shivajinagar	663808		1,20,830.00	61,018.00	18,400.00	19,800.00	1,885.46	19,727.00	1,20,830
3	26-05-2014	ICICI, Shivajinagar	341323		1,85,891.00	1,85,891.00	-	-	-	-	1,85,891
4	12-08-2014	ICICI, Shivajinagar	341324		1,57,927.00	1,53,193.00	-	-	4,733.66	-	1,57,927
5	27-11-2014	HDFC, Pune	924008	Plinth-Full	1,97,265.00	1,91,353.00	-	-	5,912.81	-	1,97,266
6	28-11-2014	ICICI, Shivajinagar	341327	Plinth-Full	6,095.00	5,912.00	-	-	182.68	-	6,095
7	22-12-2014	ICICI, Shivajinagar	341332	1st Slab-Part	6,095.00	5,912.00	-	-	182.68	-	6,095
8	30-12-2014	HDFC, Pune	926899	1st Slab-Full, 3rd Slab-Part	2,03,360.00	1,97,265.00	-	-	6,095.49	-	2,03,360
9	10-02-2015	HDFC, Pune	930609	3rd Slab-Full	1,97,265.00	1,91,353.00	-	-	5,912.81	-	1,97,266
10	10-06-2015	HDFC, Pune	943138	5th Slab-Full	2,03,360.00	1,97,265.00	-	-	6,095.49	-	2,03,360
11	18-07-2015	HDFC, Pune	946421	8th Slab-Full	2,04,170.00	1,97,266.00	-	-	6,904.31	-	2,04,170
12	10-10-2015	HDFC, Pune	953896	Brickwork-Full	2,04,170.00	1,97,266.00	-	-	6,904.31	-	2,04,170
				<b>TOTAL</b>	<b>17,86,428.00</b>	<b>15,83,694.00</b>	<b>1,18,400.00</b>	<b>19,800.00</b>	<b>44,810</b>	<b>19,727.00</b>	<b>17,86,431</b>

17,86,428

Ext. C

SC005000000000369  
 Part - D

Padmanabh - Phase I

Flat Type	Wing / Flat No.	Total Carpet Area	Rate per Sq. Feet	Cost	Parking Type	Other Cost	Total Agreement Cost	Stamp Duty 6%	Registration Chgs	Service Tax 3.09%	VAT 1%	Maintenance Chgs	Total Cost
2 BHK	A1 / 603	860	3,425.00	2,945,500.00	Covered	325,000.00	3,270,500.00	196,300.00	30,000.00	106,718.00	32,705.00	25,800.00	3,662,023.00

Payment Break-up

(Amt. in Rs.)

Sr.	Date of Payment	Bank Name	Cheque No & Date	Details of Payment	Basic Amount	Stamp Duty	Registration Charges	Service Tax @ 3.09%	VAT @1%	Total (A to E)
					A	B	C	D	E	F
1	19/03/2014	ICICI	740487/ 19.03.14	Booking	48,501	-	-	1499	-	50,000
2	10/04/2014	ICICI	740488/10.04.14	Booking + Part	306,175	-	-	9461	-	315,636
3	31/05/2014	Pavna Sahkari	321409/31.05.14	Booking + Part	4,718	-	-	146	-	4,864
4	16/08/2014	ICICI	740491/16.08.14	Booking + Part	-	196,300	30,000	0	32,705	259,005
5	23/02/2015	ICICI	740493/23.02.15	Booking + Part	291,026	-	-	8974	-	300,000
6	13/06/2014	LIC HFL	948161/31.07.15	Booking+Full, Plinth, 1st, 2nd, 3rd, 5th, 7th slab Part	1,333,767	-	-	41233	-	1,375,000
7	26/08/2014	LIC HFL	949086/13.08.15	7th slab full	305,162	-	-	9430	-	314,592
8	03/02/2015	LIC HFL	954370/16.10.15	Brickwork	327,050	-	-	11447	-	338,497
				TOTAL	2,616,399	196,300	30,000	82,190	32,705	2,957,594

mrs. Pooja Suyog Deshmukh  
 Mr. Suyog Bhushan Deshmukh

GIRME RUKHA DAVANAHALLI GANESH/CC05000000000369

Padmanabh - Phase I

Flat Type	Wing / Flat No.	Total Carpet Area	Rate per Sq. Feet	Cost	Parking Type	Other Cost	Total Agreement Cost	Stamp Duty 6%	Registration Chgs	Service Tax 3.09%	VAT 1%	Maintenance Chgs	Total Cost
2 BHK	A1 / 406	860	3,375.00	2,902,500.00	Open	275,000.00	3,177,500.00	190,700.00	30,000.00	98,185.00	31,775.00	25,800.00	3,553,960.00

Payment Break-up

(Amt. In Rs.)

Sr.	Date of Payment	Bank Name	Cheque No & Date	Details of Payment	Basic Amount	Stamp Duty	Registration Charges	Service Tax @ 3.09%	VAT @1%	Total [A to E]
					A	B	C	D	E	F
1	3/19/2014	SBI	615254/19/03/14	booking+0 days	145,504	-	-	4,496	-	150,000
2	3/24/2014	SBI	615255/24/03/14	booking+0 days	199,240	-	-	6,157	-	205,396
3	8/16/2014	SBI	615260/16/08/14	booking+0 days	-	190,700	30,000	-	31,775	252,475
4	3/9/2015	Pavana S Bk	321411/07/03/15	Plinth+1 to 3rd Slab	1,043,481	-	-	32,246	-	1,075,727
5	8/4/2015	HDFC Bk	948348/31/07/15	Aft 5th slab	836,022	-	-	25,832	-	861,854
6	10/16/2015	LIC HF	-	Aft 7th slab	319,015	-	-	9,588	-	328,602
7					-	-	-	-	-	-
				TOTAL	2,543,261	190,700	30,000	78,318	31,775	2,874,054

Ent. E

CC0050000000000369

Est. F

Vinod Rohidas Chaudhari

## Padmanabh - Phase I

Flat Type	Wing / Flat No.	Total Carpet	Rate per Sq. Feet	Cost	Parking Type	Other Cost	Total Agreement	Stamp Duty 6%	Registration Chgs	Service Tax 3.09%	VAT 1%	Maintenance Chgs	Total Cost
1.5 BH	B2 / 806	725	3,475.00	2,519,375.00	Covered	275,000	2,794,375	167,700	28,000	86,346	27,944	21,750.00	3,126,115

## Payment Break-up

(Amt. in Rs.)

Sr.	Date of Payment	Bank Name	Cheque No & Date	Details of Payment	Basic Amount	Stamp Duty	Registration Charges	Service Tax @ 3.09%	VAT @1%	Total (A to E)
					A	B	C	D	E	F
1	19/03/2014	HDFC Ban	108519/19.0	10% Booking+Part	86,300	167,700	28,000	2,667	27,944	312,611
2	06/12/2014	HDFC Ban	864606/06.1	10% Booking+Plinth	752,012	-	-	23,238	-	775,250
3	29/12/2014	HDFC Ban	363696/29.1	1st Slab	279,438	-	-	8,635	-	288,073
4	22/04/2015	HDFC Ban	366330/22.0	3rd Slab	279,438	-	-	8,635	-	288,073
5	29/05/2015	HDFC Ban	004942/29.0	5th slab	279,438	-	-	8,635	-	288,073
6	03/08/2015	HDFC Ban	104078/03.0	7th slab	280,548	-	-	8,669	-	289,218
7	22/07/2016	HDFC Ban	604790/22.0	Brick Work	269,664	-	-	9,774	-	279,438
				<b>TOTAL</b>	<b>2,226,838</b>	<b>167,700</b>	<b>28,000</b>	<b>70,253</b>	<b>27,944</b>	<b>2,520,736</b>