

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

COMPLAINT NO: CC006000000054841

Sarvapriya Leasing Pvt Ltd Complainant
Versus
M/s. Srushti Sangam Developers Pvt Ltd
MaharERA Registration No -P51800012986 Respondent

Coram: Hon'ble Dr. Vijay Satbir Singh, Member 1

Adv. Sanjay Chaturvedi appeared for the complainant.
None appeared for the respondent.

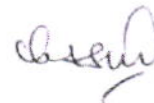
ORDER

(13th August, 2019)

1. The complainant allottee has filed this complaint with MahaRERA seeking directions to the respondent to pay interest for the delayed possession from 1st July, 2008 till the actual date of possession as provided under section-18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "the RERA Act, 2016) in respect of booking of it's 6 shops and two offices in the respondent's project known as "**Maulick Enclaves**" bearing MahaRERA registration No. P51800012986 at Chembur, Mumbai. The complainant further prayed for possession with occupancy certificate on or before 1-11-2019 as directed by MahaRERA vide order dated 21-05-2018 passed in complaint No. CC00600000001643 filed by the complainant or to give fit out possession of the said premises to the complainant etc.,
2. This matter was heard on several occasions i.e. 24-07-2018, 14-08-2018, 14-09-2018, 28-09-2018, 26-11-2018, 11-01-2019 and the same was finally heard on 1-07-2019, when the matter was closed for order. During the hearings, the complainant appeared through it's advocate. However, none appeared for the respondent for final hearing of this case.



3. The complainant has argued that they had booked and purchased 6 shops and 2 offices in the respondent's project by executing separate registered agreements for sale dated 29-01-2007 for a total consideration amount of Rs. 4,53,71,100/-. Since the said project remained incomplete and the complainant could not get possession of the said premises, they filed complaint No. CC00600000001643 before MahaRERA seeking possession of the said premises. In the said complaint, the MahaRERA passed an order on 21-05-2018 holding the complainant as an allottee in the respondent's project. In the order, the MahaRERA has also directed the respondent to complete the said project by 1-11-2019 and handover possession of the said premises to the complainant with occupancy certificate.
4. The complainant further argued that as per the MOU, signed by the respondent dated 30-1-2007, he has agreed to handover possession of the said premises to the complainant within a period of 18 months from the date of signing of the said MOU i.e. 31st July, 2008. However, till date the respondent has not handed over possession of the said premises to the complainant. Therefore, the complainant has filed this complaint seeking interest for the delayed possession from 1-08-2009 till the actual date of possession as provided under the provision of section-18 of the RERA Act, 2016. The complainant also prayed for formation of society, fit out possession and the compensation towards mental agony etc.,
5. During the hearings, the respondent appeared for the hearing through his advocate on 14-08-2018 and informed MahaRERA that against the earlier order dated 21-05-2018 passed by the MahaRERA in complaint No. CC00600000001643, an appeal had been filed before the Maharashtra Real Estate Appellate Tribunal. Hence, this matter was adjourned to next date for time to time. However, the respondent did not appear for the effective hearing of this case and not even filed his reply. It shows that the respondent is not willing to contest this matter. Hence the MahaRERA has no other alternative but to proceed with this matter *ex parte* on merits.



6. The MahaRERA has examined the arguments advanced by the complainant as well as the record. In the earlier case, it appears that vide order dated 21-05-2018, passed in Complaint No. CC00600000001643, the MahaRERA had held that the complainant is an allottee in this project registered by the respondent. The respondent had challenged the said order before the Maharashtra Real Estate Appellate Tribunal by filing Appeal No. AT006000000010557. The said appeal filed by the respondent has been dismissed on 30-10-2018, whereby the Hon'ble Appellate Tribunal has confirmed the order dated 21-05-2018, passed by the MahaRERA. The respondent has not produced anything on record to show that the said order of Appellate Tribunal has been set aside by the Apex Court. Hence, the MahaRERA confirmed that the complainant is an allottee of this project and entitled to seek relief under the provisions of the RERA Act, 2016.
7. By the earlier order dated 21-05-2018, the MahaRERA has also preponed the revised date of completion given by the respondent from 1-09-2022 to 1-11-2019. However, it appears that the possession is not given to the complainant till date. Hence the complainant is seeking interest for the delayed possession from the agreed date of possession mentioned in the MOU dated 30-01-2007 i.e. 31st July, 2008 till the actual date of possession.
8. In this regard the MahaRERA feels that admittedly, there is a delay happened in completion of this project. The reasons for the delay raised by the respondent pertaining to this project, such as, dispute between the landowners, heritage list published on 31-07-2012, delay in finalization of D.P Plan etc. have been discussed in detailed by the MahaRERA in complaint No. CC00600000001802 filed by one Mr. Mahesh Khanolkar vide order dated 22-05-2018 and the said allottee has been granted interest under section -18 of the RERA Act, 2016 from 1st May, 2017 till the actual date of possession. Therefore, the present complainant being part of the same



project, is also entitled for identical relief as granted in favour of the other allottee.

9. In the light of the above facts and discussion, the respondent is directed to pay interest to the complainant on the actual amount paid by the complainant from 1st May, 2017 till the date of possession at the rate of Marginal Cost Lending Rate (MCLR) plus 2%, as prescribed under the provisions of Section-18 of the Real Estate (Regulation and Development) Act, 2016 and the Rules made there under.
10. With regard to the issue raised by the complainant for fit out possession, the MahaRERA feels that there is no provisions in RERA Act, 2016, to issue such direction. In respect of the compensation sought by the complainant, the MahaRERA feels that since the complainant is continuing in the said project, no compensation can be granted to the complainant in view of the explicit provision of section-18(1) of the RERA Act, 2016.
11. With regard to the formation of the society, the MahaRERA feels that as per the provision of section 11(4)(e) of the RERA Act, 2016, it is mandatory for the respondent to take steps for formation of a society of the allottees, if more than 51% premises have been booked in the said project. The same is binding upon the respondent promoter.
12. With the above directions, the complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member 1, MahaRERA