

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

1. COMPLAINT NO: CC006000000056443  
Shammi Tapse
2. COMPLAINT NO CC006000000056447  
Ankur Priyanka
3. COMPLAINT NO CC006000000056453  
Deviprasad Ramdas Singh
4. COMPLAINT NO CC006000000056454  
Sanjeev Gupta
5. COMPLAINT NO CC006000000056455  
Jyoti Maheshwari
6. COMPLAINT NO CC006000000056511  
Shivkumar Kulkarni
7. COMPLAINT NO CC006000000056512  
Vivek Kulkarni
8. COMPLAINT NO CC006000000056600  
Abhay Mehrotra
9. COMPLAINT NO CC006000000056601  
Chirag jangid
10. COMPLAINT NO CC006000000056603  
Ambika Somani Taparia
11. COMPLAINT NO CC006000000056605  
Srihari Ayyangar

... Complainants

Versus

T Bhimjyani Realty Pvt. Ltd.  
MahaRERA Regn. No. P51700004591

...

Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants were represented by Mr. Abhaysingh A. Shinde, Adv.  
Respondent was represented by Mr. Anwar Landge, Adv.



## Order

December 03, 2018

1. The eleven Complainants in the present complaints have purchased apartments in the Respondent's project 'Neelkanth Woods Olivia' situated at Majiwade, Thane; via registered agreements for sale in the period ranging from 2014 to 2016. The Complainants have alleged that the Respondent has wilfully delayed the completion of the said project with the intention of maximising profits. Therefore, they prayed that the Respondent be directed to pay interest, on delay, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 and to commit to a reasonable timeline for handing over possession.
2. The learned counsel for the Complainants submitted the Respondent has collected payments towards terrace slab much earlier than the starting of the actual work.
3. The Learned Counsel for the Respondent submitted the project could not be completed for reasons beyond the Respondent's control. Further, he submitted that the Respondent in Complaint no: CC006000000012658 filed against the said project has already committed to handover possession by May 2019 and that the same timeline for delivery of possession be made applicable to the present complaint too. He accepted that the Respondent had collected payments towards terrace slab and external plastering prematurely.
4. The Complainants insisted that they be awarded interest for the delay in handing over possession.
5. Preamble of the said Act reads as thus:

*An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.*

Under the provisions of the said Act, MahaRERA has been established not only as a quasi-judicial body but is also entrusted with regulatory functions. It is obligated to implement the



provisions of the said Act in a harmonious manner and not in isolation, so that interests of all the stakeholders are protected.

6. Section 4 (2)(l)(D) of the said Act reads as follows:

...  
(D) that seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

*Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:*

*Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:*

*Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.*

Keeping in mind the larger interest of all the allottees of the said project, awarding interest at this stage would mean jeopardising the project completion. Money for the interest payment will have to be taken out from the separate account, which is meant specifically for the completion of the project and would eventually slow down the progress of the project work.

7. As per the provisions of the Rule 4 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 the revised date of possession for an ongoing project has to be commensurate with the extent of balance development.

On review of the Respondent's MahaRERA registration it is observed that the respondent has put November, 2020 as the revised proposed date of completion which is an unreasonable time period for completion of the project.

8. In view of the above facts:



- i. the Respondent shall handover possession of the apartments to the allottees before the period of May 31, 2019. The Complainant shall be at liberty to demand interest at the stage of completion of the project, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder, from the Respondent for the delay in completing the said project.
  - ii. the Respondent is liable to pay interest to the allottees (part of this complaint) for the payments not due, yet collected, from the date on which such payments were collected till May 31, 2019. The said interest shall be setoff/adjusted towards the balance money payable by the allottees.
  - iii. any interest payable 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 and shall be setoff/adjusted at the time of handing over possession.
9. Consequently, the matters are hereby disposed of with the above directions.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA