

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

COMPLAINT No: CC005000000011856

Mr. Prasad Shridharrao Aware

..... Complainant

Versus

Mr. Atul Ratnakar Mahashabde & 3 Ors

..... Respondents.

MahaRERA Registration No. **P52100005869**

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

The complainant appeared in person.

Adv. Sanket Bora appeared for the respondents.

ORDER

(29th October, 2018)

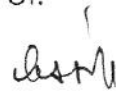
1. The complainant has filed this complaint seeking directions from MahaRERA to the respondents to pay interest for the delayed possession under Section-18 of the RERA Act, 2016 from December, 2017 till the actual date of possession in respect of booking of a flat No. **305** on 3rd floor in Building H in the project known as "**Tropical Palms Building H**" bearing MahaRERA Registration No. **P52100005869** at Pune.
2. This matter was heard finally today. During the hearing, the complainant has argued that he purchased the said flat in the respondents' project by executing agreement for sale executed in the month of Sept. 2016 for a total consideration amount of Rs. 56.65 lakhs. Out of the said amount, he has paid 90% amount including stamp duty and registration charges. As per clause No. 9 of the said agreement, the respondents were liable to handover possession of the said flat to the complainant by 31st December, 2017 with grace period of 6 months. However, till date he has not received the possession of the said flat. Hence, the complainant has filed this



complaint seeking interest for the delayed possession under Section-18 of the RERA Act, 2016.

3. The respondents disputed the claim of the complainant and argued that there is no intentional delay on their part in handing over possession of the flat to the complainant. The respondents further argued that they had applied for TDR permission for construction of additional floors to the concerned competent authority in the month of October, 2016. However, the competent authority did not grant the said permission. Hence the project got delayed and they could not handover possession of the said flat to the complainant.
4. The MahaRERA has examined the arguments advanced by both the parties as well as the record. In the present case admittedly, the complainant has purchased a flat by executing a registered agreement for sale with the respondents and till date he has paid around 90% amount out of the total cost of the said flat. According to the said agreement the respondents were liable to hand over the possession of the said flat to the complainant by December, 2017 with grace period of 6 months i.e. 30th June, 2018. The complainant is, therefore, seeking interest for the delayed possession.
5. The respondents have argued that the project got delayed due to inordinate delay in granting TDR permissions by the competent authority for construction of additional floors. The said contention of the respondents cannot be accepted since the complainant has booked a flat on 3rd floor for which commencement certificate was already in place. The respondents could have completed the construction of the said flat of the complainant and possession would have been granted to him by obtaining part occupancy certificate.

6. It is very clear from the above discussion that the reasons cited by the respondents for the delay in completion of the project, do not give any plausible explanation. Moreover, the payment of interest on the money invested by the home buyer is not the penalty, but, a type of compensation for delay as has been clarified by the Hon'ble High Court of Judicature at Bombay in the judgment dated 6th December, 2017 passed in W.P.No. 2737 of 2017. The respondents are liable to pay interest for the period of delay in accordance with the terms and conditions of agreement.
7. In view of above facts and discussion, the respondents are directed to pay interest to the complainants from 1st July, 2018 till the actual 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 on the actual payment made by the complainant.
8. With the above directions, the complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member 1, MahaRERA