

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

Complaint No.CC005000000010612

1. Rahul Rajput (Withdrawn)
2. Umesh S. Surve
3. Namdeo Rathod
4. Amol A. Aranke
5. Mahesh Mukunddas Gandhi
6. Satish Vasant Joshi
7. Ragini Rameshwar Sagane.(Withdrawn)

.. Complainants

Versus

D.S. Kulkarni & Company

.. Respondent

**Coram : Shri S.B.Bhale
Hon'ble Adjudicating Officer**

FINAL ORDER

24th MAY, 2018

1. Initially it was a joint complaint of all along 7 Complainants. However, on 09.05.2018, Complainant No.1 Rahul Rajput and Complainant No.7 Ragini Sagane tendered an application requesting to allow them to withdraw from the complaint with liberty to allow them to file fresh complaint on the same cause of action. That application was allowed vide order, dated 09.05.2018 and Roznama of the same date. Thus the complaint is now proceeded by Complainant No.2 to 6 viz. Umesh Surve, Namdeo Rathod, Amol Aranke, Mahesh Gandhi and Satish Joshi respectively.

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2. On perusal of the previous Roznamas, it seems that initially the Respondents were represented by so called representative Ms. Ajita Sharma, but she also failed to file on record authority letter on behalf of the Respondents for authorizing her to appear on their behalf. Thereafter Respondents as well as Ms. Ajita Sharma remained absent. Therefore, the complaint is proceeded in the absence of the Respondents further in accordance with law.
3. It is a case of the Complainant Nos.2 to 6 that they all have booked individual flats under the separate agreements in the project of the Respondents viz. "DSK-Sadafuli" at village Warale, District Pune, the details of the flats booked by each of the Complainants, date of agreement, date of possession, total consideration and amount paid by them to the Respondents till the date inclusive of stamp duty, etc. has been given in the table given below.

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No. & Name of Complainant	Flat No.	Date of Agreement	Date of possession	Total cost of flat exclusive of stamp duty , registration charges and other taxes) Rs.	Amount paid till the date of Complaint (Inclusive of stamp duty, registration charges and other taxes.) Rs.
2) Umesh Surve	A1-503	24.04.2013	30.11.2015	33,97,000/-	36,33,956/-
3) Namdeo Rathod	A1-502	19.10.2013	30.11.2015	34,97,000/-	37,38,035/-

4) Amol Aranke	A1-702	15.06.2013	30.11.2015	38,19,000/-	37,27,650/-
5) Mahesh Gandhi	A1-205	29.04.2013	30.11.2015	21,05,000/-	23,24,303/-
6) Satish V. Joshi	A1-404	30.07.2014	30.11.2015	22,86,000/-	24,48,269/-

4. Further it is the case of the Complainant that the Respondents failed to hand over possession of their respective flats to them in terms of the agreement as is shown in the aforesaid table in column No. 4. Therefore, they filed this complaint and claimed the relief of interest over the amount paid by each of them for every month's delay till handing over possession, at such rate as may be prescribed under the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the **RERA**).

5. As the complaint of the Complainants proceeded further in absence of the Respondents, following points arise for determination and I am going to record my findings thereon as under.

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POINTS

FINDINGS

- (1) Whether Complainant Nos.2 to 6 are entitled to interest for every month's delay on the amount paid by each of them to the Respondents, till handing over possession of their respective flats at such rate as may be prescribed ? .. In the Affirmative
- (2) What order ? As per final order.

REASONS

6. Heard Complainant Nos.2 to 6 respectively in person. The Respondents could not be heard being absent. Perused the documents filed on record.

7. **POINT No.1** :- On perusal of the papers and taking into the date of agreement and date of possession as is given in the table of para No.1 in column Nos.3 and 4, it can be said that the Respondents have failed to hand over possession of the booked flats to each of the Complainants within the time limit as agreed in the respective agreements. In such circumstances, the claim of each of the Complainant to claim interest on the amount paid by each of them to the Respondents for every month's delay till handing over possession of the respective flats, at the rate as may be prescribed, is justified.

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8. It is to be noted that all the Complainants are intending to remain in the project. Therefore, they are entitled to claim interest on the actual amount paid by them to the Respondents, at such rate as may be prescribed under the provisions of RERA.

9. As stated earlier and considering the fact that all the Complainants are not intending to withdraw from the project, it will be just and proper to deduct the amount spent by each of them towards the stamp duty. The claim of total amount paid by each of them, after deduction of stamp

duty amount and the net amount received to the Respondents is given in the table below.

No. & Name of Complainant	Total amount paid by the Complainant s till the date of complaint (inclusive of stamp duty, registration charges and other charges).	Deduction of amount of Stamp duty incurred.	Net Amount paid	Date of entitlement of interest for every month's delay.
2) Umesh Surve	36,33,956/-	1,69,850/-	34,64,106/-	01.12.2015
3) Namdeo Rathod	37,38,035/-	1,74,850/-	35,63,185/-	01.12.2015
4) Amol Aranke	37,27,650/-	1,90,950/-	35,36,700/-	01.12.2015
5) Mahesh Gandhi	23,24,303/-	1,05,250/-	22,19,053/-	01.12.2015
6) Satish V. Joshi	24,48,269/-	1,14,300/-	23,33,969/-	01.12.2015

10. Thus on deduction of the amount spent towards the stamp duty, the amount which is due and payable to the Complainant as shown in the column No. 4 and the dates of interest as shown in column No. 5 for each of the complainants respectively.

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11. As stated earlier and as is shown in the above table, I have calculated the amount of Complainant Nos.2 to 6, which they are entitled to receive the interest for every month's delay till handing over possession of the respective flats booked by them in the project of the Respondents.

12. In view of the prescribed rules and the provisions of Section 18 of the RERA, the rate of interest payable by the promoters i.e. Respondents to the allottee shall the State

Bank of India's highest marginal cost of Lending Rate + 2%. In case the State Bank of India's marginal cost of Lending Rate is not in use, it would be replaced by such bench mark Lending Rate which the State Bank of India may fix from time to time for lending to the general public. Further in view of the rules framed under the RERA Act, the rate of interest at the rate of MCLR of State Bank of India which is currently 8.05% and it will be added by 2%. Thus the complainants are entitled to receive the simple interest @ 10.05% p.a. on the actual amount paid by each of them as is shown in column No.(4) from the date as shown in column No.(5) of the table below para (9) above.

13. For these reasons and the express provisions of RERA, I am going to allow the complaint of Complainant Nos.2 to 6 and recorded my findings on Point No.1 in the affirmative. Hence the order.

ORDER

1. The Respondents are directed to pay simple interest @10.05% p.a.to each of the complainants on the amount, which is due and payable by the Respondent as mentioned in the table in para No. (9), since the date of entitlement as shown in column No. (5) of the said table. The table given in para No.9 be treated as part and parcel of this order.
2. The Respondent shall pay the interest due and payable to each of the Complainants within 30 days from the date of

this order and shall be continued to pay for every month's delay till handing over possession of the respective flats to each of them.

3. In addition to this, the Respondents are also directed to pay the amount of Rs. 3,000/- to each of the Complainant towards the cost of this litigation.

Pune
Date :- 24.05.2018

S. B. Bhale
24-5-18
(S. B. Bhale)
Adjudicating Officer,
MahaRERA, Pune