

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

Complaint No.CC005000000022134

Sandesh Janardha Kale,
C-1, Chandrakamal Apartments,
Modern Colony, Paud Road,
Pune-411 038.

.. Complainant

Versus

Gagan Horizon Venture,
Add. : Gat No. 524, Koregaon-Mul,
Uruli-Kanchan, Pune-411 028.

.. Respondent

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

Appearance :-

Complainant : In person.

Respondent : Representative Mr. Mitesh Shah

**FINAL ORDER
(20.02.2019)**

1. It is the case of Complainant that he has booked the flat No.A-3/408 on 4th floor in the project of Respondent named as "Gagan Akanksha" located at Mouje Koregaon-Mul, Urului-Kanchan, Tal. Haveli, District Pune and as described in the agreement, dated 24.04.2013. The total consideration cost of the booked flat was Rs. 18,94,000/- excluding the stamp duty, registration charges, other taxes and cess. It is alleged that till date Complainant has paid amount of

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Rs.17,99,300/- to the Respondents towards the consideration, excluding stamp duty, service tax, VAT, etc. The Respondents had agreed to hand over possession of the booked flat on or before 31.03.2015. Now the construction of the project is stalled and no possession is given, as agreed. The Complainant intends to remain with the project, therefore, he has claimed the relief of interest for every month of delay till the handing over of possession, at such rate, as may be prescribed in view of Section 18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "RERA").

2. Heard Complainant in person. Initially Respondent remained absent, but appeared today and moved an application for setting aside and quash the exparte order, dated 13.02.2019. That application stands allowed and on the request of Respondent, he was heard through representative in absence of W.S. and plea.
3. In the above facts and circumstances, following points arise for my determination. I am going to record my findings against each of them for the reasons stated below.

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POINTS

FINDINGS

- (1) Whether the Complainant is entitled for the interest on the amount paid by him towards agreed consideration of the flat for every month of delay till the handing over

of possession, at such rate,
as may be prescribed under
RERA ? In the Affirmative

(2) What order ? As per final order.

REASONS

4. Heard complainant in person, whereas Mr. Mitesh Shah, authorized representative of the Respondent. Perused papers filed on record.
5. It is submitted on behalf of the Complainant that Respondent failed to hand over possession of the booked flat, as agreed on or before 31.03.2015. He intends to remain with the project, hence his claim for interest for delayed possession be allowed. Mr. Mitesh Shah, the representative of the Respondent argued that the Respondent has submitted an application before the concerned authority for environment clearance, that application was considered with delay for more than one and half year. After getting the clearance from the concerned authority, the construction of the project is continued. Now construction is completed and occupancy certificate is also issued by the competent authority. Further it is submitted that the Respondents are ready and willing to pay the rent amount to the complainant in terms of agreement, which was registered under MOFA on 20.04.2013. Therefore, the complaint is liable to be dismissed.
6. It is to be noted that though the agreement was registered under MOFA on 20.04.2013, the project wherein the

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Complainant has booked the flat is not yet completed. Therefore, in view of the provisions of Section 3 of the RERA, that project can be treated as ongoing project. It is fact that the complainant has not received possession of the booked flat as yet. Therefore, his claim for interest for delayed possession is justified and liable to be allowed.

7. On perusal the payment receipts filed on record and other documents, it becomes clear that the Complainant has paid the amount of Rs. 17,99,300/- to the Respondents against the booked flat.
8. In view of the provisions of the Maharashtra Rules, the Complainant is entitled to receive the interest at State Bank of India's highest Marginal Cost Lending Rate i.e. 8.70% + 2% above = 10.70% p.a. The Complainant is therefore, entitled to receive the interest on the amount of Rs.17,99,300/- paid by him w.e.f. 01.04.2015 till he gets the actual and physical possession of the booked flat. Since the claim of the Complainant covers under the provisions of Section 18 of RERA, the arguments advanced on behalf of the Respondent that they are ready and willing to give the rent amount as mentioned in the registered agreement cannot be taken into consideration. In addition to the interest, the Complainant is also entitled to receive cost of this complaint from the Respondent. I therefore, answer Point No.1 in the affirmative and proceed to pass following order.

20/3/2021

ORDER

- (i) The Respondent to pay interest to the Complainant @ 10.70% p.a. on the amount of Rs. 17,99,300/- for every month of delay i.e. from 01.04.2015 till handing over of the possession of the flat.
- (ii) Respondent to Pay Rs. 15,000/- to complainant as cost of this proceedings.
- (iii) The Respondent to pay the due amount to the Complainant within 30 days from the date of this order and continue to pay the same till handing over possession of the booked flat.

Pune
Date :-20.02.2019

S.B. Bhale
20.2.19
(S.B. Bhale)
Adjudicating Officer,
MahaRERA, Pune

ORDER

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Pune
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(S.B. Bhale)
Adjudicating Officer,
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20.02.2019