

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

COMPLAINT NO: CC005000000000271

Mona Pande ... Complainant.

Versus

Marvel Sigma Homes Pvt. Ltd.

Runal Developers

(Marvel Cascada E Building) ... Respondents.

MahaRERA Regn: -P52100002242

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Appearance:

Complainant: In person

Respondents: Mr. Kiran Parmar Adv.

Final Order.

26th February 2018.

The complainant claims refund of her amount paid to the respondents in the context of purchasing flat no. E-601 of respondents' registered project Marvel Cascada situated in Pune, under Section 18 of Real Estate (Regulation and Development) Act, 2016 (in short RERA) on their failure to deliver its possession on the agreed date 31st December 2016

2. The respondents have pleaded not guilty but they have not filed their explanation.

3. Heard the advocates of the parties.

4. Following points arise for determination.



POINTS

FINDINGS

- | | |
|---|--------------|
| 1. Whether respondents have failed to deliver the possession of the booked flat on the agreed date? | Affirmative. |
| 2. Whether the complainant is entitled to get refund of her amount with interest? | Affirmative. |

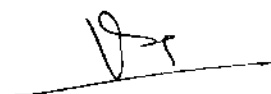
REASONS

Delayed Possession.

5. The complainant has produced the copy of agreement for sale. Para-5(b) of the agreement shows that the respondents agreed to deliver the possession of the flat booked by the complainant on or before 31.12.2015. The respondents have not disputed the fact that they have not delivered the possession of the flat till the date of the complaint. Hence, I hold that the respondents have failed to deliver the possession of the flat on the agreed date.

Legal Provision.


6. Section 18 of RERA provides that if the promoter fails to give possession of an apartment on the specified date mentioned in the agreement for sale, when the allottee intends to withdraw from the project, the promoter is liable to refund the allottee his amount with interest. Complainant wants to withdraw from the project, therefore now she is entitled to get refund of her amount with interest. Section 18 of RERA entitles the complainant to get above amount with interest at prescribed rate. Rule 18 of Maharashtra Real Estate (Regulation & Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest & Disclosures on Website) rules, 2017 provides that the



prescribed rate shall be the State Bank of India highest marginal cost of lending rate which is currently 8.05% plus 2%. Therefore, the complainant is entitled to get her amount with simple interest at the rate of 10.05% from the respective dates of their payment till they are refunded by the respondents.

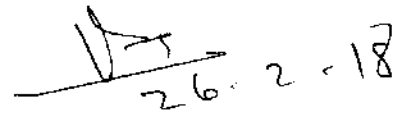
Entitlement of the complainant.

7. The statement marked Exhibit 'A' produced in this case shows the amount paid by the complainant to the respondents from time to time. However, the respondents have contended that the stamp duty of Rs. 17,34,100/- has been paid in the name of the complainant herself and on cancellation of the agreement for sale she would be able to get refund thereof. Hence, this amount of stamp duty will have to be excluded from the payment shown in the statement marked at Exhibit 'A'. I agree with the respondents and record my finding to this effect. So far as payment of taxes and other charges are concerned, I find that the complainant has paid them only because she agreed to purchase the flat. The respondents have defaulted in delivering the possession of the flat on the agreed date. Therefore, the complainant cannot be made liable to sustain this loss. On the contrary, the respondents have incurred the liabilities to compensate the complainant in this regard as they are guilty of not delivering the possession of the flat as agreed by them. Therefore, the complainant is entitled to receive the amount paid by her to the respondents mentioned in Exh. A, with interest at the rate of 10.05% from the date of their respective payments along with the cost of the complaint amounting to Rs. 20,000/-. Hence the order.



ORDER.

1. Respondents shall pay the complainants the amount mentioned in Exhibit 'A' except the amount of stamp duty, with interest at the rate of 10.05% from the respective dates of their receipts till they are repaid. Exhibit 'A' shall form the part of this order.
2. The respondents shall pay the complainant Rs. 20,000/- towards the cost of complaint.
3. The respondents to pay the amount with interest as directed within 30 days as per Rule 19 of 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.
4. The charge of the amount awarded by this order shall remain on the flat booked by the complainant till satisfaction of her claim.
5. The complainant shall execute the deed of cancellation of agreement of sale on satisfaction of her claim, at respondents' cost.



(B.D. KAPADNIS)

Member & Adjudicating Officer,
MahaRERA, Mumbai.

Mumbai
Date: 26.02.2018

21-A

Name	Mohini Pandharipande Mr. Mohit Parag Pandharipande
Flat No.	Marvel Cascada E 0601
Customer No.	140214
Sales Order No.	20003828

Registration Date	30.10.2014	
Area	4,795.00	
Rate	6,027.27	
Sale Value	28,900,750.00	
Legal	35,000.00	
MSEB	200,000.00	
Club Membership	200,000.00	
Society Maintenance	959,000.00	
VAT	289,007.50	
Service tax	1,664,134.93	
Interest on Flat	-	
Interest on Service tax	-	
Interest on Vat	-	
Stamp Duty	1,769,045.00	
Total	34,016,937.43	
30.08.2014	986,740.00	Ch.013747Dt30.08.2014CENTRAL BANK OF INDIAR.No.20
09.10.2014	14,357,925.00	DD.084684Dt07.10.2014CENTRAL BANK OF INDIAR.No.20
05.11.2014	1,104,456.00	Ch.087025Dt03.11.2014CENTRAL BANK OF INDIAR.No.20
27.10.2015	1,104,870.00	Ch.109643Dt26.10.2015CENTRAL BANK OF INDIAR.No.20
18.11.2015	1,104,870.00	Ch.109686Dt17.11.2015CENTRAL BANK OF INDIAR.No.20
20.11.2015	11,160.00	Ch.109685Dt17.11.2015CENTRAL BANK OF INDIA
07.12.2015	1,104,870.00	Ch.109802Dt04.12.2015CENTRAL BANK OF INDIAR.No.20
30.08.2014	37,080.00	Ch.013748Dt30.08.2014CENTRAL BANK OF INDIAR.No.20
09.10.2014	537,971.00	DD.084685Dt07.10.2014CENTRAL BANK OF INDIAR.No.20
05.11.2014	41,382.00	Ch.087027Dt03.11.2014CENTRAL BANK OF INDIAR.No.20
10.01.2015	8,394.00	Ch.015276Dt09.01.2015CENTRAL BANK OF INDIAR.No.20
27.10.2015	46,873.00	Ch.109641Dt26.10.2015CENTRAL BANK OF INDIAR.No.20
18.11.2015	46,873.00	Ch.109684Dt17.11.2015CENTRAL BANK OF INDIAR.No.20
07.12.2015	46,873.00	Ch.109804Dt04.12.2015CENTRAL BANK OF INDIAR.No.20
11.09.2014	4,850.35	Ch.069699Dt10.09.2014CENTRAL BANK OF INDIAR.No.20
11.09.2014	284,157.65	Ch.069699Dt10.09.2014CENTRAL BANK OF INDIAR.No.20
11.09.2014	1,769,045.00	Ch.069699Dt10.09.2014CENTRAL BANK OF INDIAR.No.20
10.01.2015	4,850.00	Ch.015277Dt09.01.2015CENTRAL BANK OF INDIAR.No.20
30.08.2014	13,261.00	Ch.013749Dt30.08.2014CENTRAL BANK OF INDIAR.No.20
09.10.2014	150,463.00	DD.084686Dt07.10.2014CENTRAL BANK OF INDIAR.No.20
05.11.2014	11,575.00	Ch.087026Dt03.11.2014CENTRAL BANK OF INDIAR.No.20
27.10.2015	11,160.00	Ch.109642Dt26.10.2015CENTRAL BANK OF INDIAR.No.20
27.10.2015	11,160.00	Ch.109685Dt18.10.2015CENTRAL BANK OF INDIAR.No.20
07.12.2015	11,161.00	Ch.109803Dt04.12.2015CENTRAL BANK OF INDIAR.No.20
10.01.2015	1,019.00	Ch.015275Dt09.01.2015CENTRAL BANK OF INDIAR.No.20
10.01.2015	95,988.00	Ch.015274Dt09.01.2015CENTRAL BANK OF INDIAR.No.20
Total	22,909,027.00	

DR
29/1/16

Statement received & acknowledged.

~~Rs. 22,909,027~~

Rs. 22,917,867 DR

DR This is including stamp duty, VAT, service tax + TDS.

Balance	11,107,910.43	
Balance against Flat	8,832,501.50	Marvel Runal Escrow Account
Balance against Other Charges	339,012.00	Marvel Sigma Homes Pvt Ltd
Balance against Society Maint	959,000.00	<i>Marvel Cascada Co. Op. Housing Society Limited</i>
Balance against DG Back Up	-	Marvel Facility Management Services
Balance against Service tax	893,838.58	Midas Sheltors Pvt Ltd Tax Account
Balance against VAT	(0.15)	Midas Sheltors Pvt Ltd Tax Account
Balance against Interest	-	Marvel Sigma Homes Pvt Ltd
Balance against Stamp Duty	-	Midas Sheltors Pvt Ltd Tax Account
Balance against TDS	83,558.50	Midas Sheltors Pvt Ltd TDS Collection Account
Total	11,107,910.43	