

BEFORE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO: CC006000000000227

Prasad Chaudhari

... Complainant.

Versus

Rohit Chugani  
(Falco Rivershire )

... Respondents.

MahaRERA Regn: P51700005912

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

Complainant: In person.  
Respondents: In person.

**Final Order**  
29<sup>th</sup> January 2018.


**Pleadings of parties.**

The complainant contends in complaint filed under Section 18 of the Real Estate (Regulation and Development) Act, 2016 (RERA) that he booked flat no. 1408 in respondents' registered project Falco Rivershire situated at Ambivali, Village Mohili, Taluka Thane in subvention scheme. The respondents agreed to deliver its possession on or before 30<sup>th</sup> June 2016 with the grace period of six months. However, they failed to give the possession of the flat on the agreed date. Therefore, he claims his amount with interest and/or compensation.

2. Respondents have pleaded not guilty but they have not filed any explanation.

**Point for determination.**

3. Whether the complainant is entitled to get refund of his amount with interest on the respondents' failure to deliver the possession of the flat on the

  
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agreed date, is the only point which needs to be answered. I answer it in affirmative for the following reasons.

## **REASONS**

### **Delayed possession.**

4. The complainant has produced a copy of the agreement for sale executed by the respondents in his favour which shows that the complainant agreed to purchase the above numbered flat and the respondents agreed to deliver its possession on or before June 2016 subject to grace period of six months. It is admitted fact that till the date of the complaint the possession of the flat has not been given. Hence, I record my finding to the effect that the respondents have failed to deliver the possession of the flat on the agreed date.

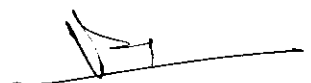
### **Legal provision.**

5. The Section 18 of RERA provides that allottee can claim refund of his amount with interest and/or compensation if the promoter fails to deliver the possession of the apartment on the date specified in the agreement. It gives the option to allottee to withdraw from the project. In view of this provision, the complainant has exercised his right to withdraw from the project and claims refund of his amount with interest.

6. Section 18 of RERA allows the allottee to collect his amount with interest at prescribed rate which is MCLR of SBI + 2%. The current rate of MCLR of SBI is 8.05% at present. Thus, the complainant is entitled to get simple interest at the rate of 10.05%.

### **Complainant's entitlement.**

7. The respondents have not denied the receipt of amount mentioned in the payment schedule marked as Exhibit 'A'. The complainant has been claiming the interest paid by him to India Bulls, the financier, as the flat was taken under

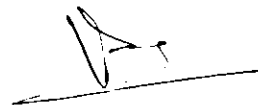


subvention scheme. The financier recovered interest from October 2016, which in fact, was payable by the Respondents till handing over the possession of the flat. I find that the complainant is entitled to get back all the amount including loan amount paid by him to the respondents with interest at the prescribed rate of 10.05 from the date of payment of amount. Therefore, he cannot claim interest paid to financier separately. The complainant is also entitled to the incidental charges namely the loan processing fees, insurance payment including registration fee amounting to Rs. 30,000/- from the Respondents because they have defaulted in delivering possession on the agreed date. Since the complainant is not at fault, he cannot be made liable to bear those expenses.

8. So far as the stamp duty of Rs. 1,81,500/- is concerned, the complainant has paid it in his name. Therefore, on cancellation of agreement, he is entitled to get the refund thereof. Hence it can be claimed by the complainant. However, respondents are also liable to pay the complainant Rs. 20,000/- towards the cost of complaint. Hence, the following order.

### **ORDER**

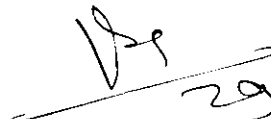
1. The respondents shall refund the amount mentioned in payment schedule marked at Exhibit 'A' subject to the observations contained in Para 7&8 of this order with simple interest at the rate of 10.05% to the complainant from the date of receipt thereof till they are repaid. Exhibit 'A' shall form the part of this order.
2. The respondents shall pay complainant Rs. 20,000/- towards the cost of complaint.
3. Complainant shall execute deed of cancellation of agreement for sale, at respondents' cost on satisfaction of his claim.



4. The charge of amount payable to complainant is kept on his booked flat until his claims is satisfied.

Mumbai.

Date: 29.01.2018.

  
29.1.18

(B.D. Kapadnis)

Member & Adjudicating Officer  
MahaRERA, Mumbai.

Falco Rivershire  
Prasad Chaudhari  
Unit No.1408  
Date of Registration :- 14/08/2015

*Ext. A*

Date	Ref.No.	Particulars	Transaction Between	Amt
19-09-14	Receipt No. 1658	Down Payment	Prasad Paid To Falco	100,000.00
30-09-14	Receipt No. 1660	Down Payment	Prasad Paid To Falco	100,000.00
17-10-14	Receipt No. 1659	Down Payment	Prasad Paid To Falco	306,418.00
07-11-14	Ch.No. 579103	Loan Processing Fees	Prasad Paid To Indiabulls	11,886.00
23-08-15		POA In brothers Name	Prasad Paid at Dubai Embassy AED 150 @ 17.56 INR	2,634.00
Loan Processed from Indiabulls and Bank Gave them bellow Amt				
19-11-15	Indiabulls Loan Letter and Try Party	Loan Amount	Indiabulls Paid to Falco	2,238,000.00
14-08-15		Stamp Duty And Registration, Document handling charges and	Payment made To IDBI BANK for Stamp Duty is Rs.1,81,500 (+) Registration cost is Rs.30,000 (+) Document handling charges Rs.1,640 (+) Given to builder person in cash Rs.10,000	223,140.00
		10,000 Builder Person Taken In Cash		
05-10-16	Insurance premium	Insurance Premium (427 x 16 Month)	Indiabulls Charges with EMI from (Oct-2016)	6,832.00
				2,988,910.00

Note :- Litigation Cost in addition