

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

1. Complaint No. CC006000000078828

Satish P. Ajmera
Versus
Heena Lifestyles

..... Complainant
..... Respondent

Along with

2. Complaint No. CC006000000078661

Rajni Saini
Versus
Heena Lifestyles

..... Complainant
..... Respondent

Along with

3. Complaint No. CC006000000079342

Meena Shah
Falgun Shah
Versus
Heena Lifestyles

..... Complainants
..... Respondent

Along with

4. Complaint No. CC006000000079345

Vimla Agrawal
Dinesh Agrawal
Versus
Heena Lifestyles
Project Registration No. P51800006989

..... Complainants
..... Respondent

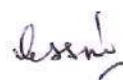
Coram: Hon'ble Dr. Vijay Satbir Singh, Member – 1/MahaRERA

Adv. Priti Oza appeared for the complainant in complaint at Sr No. 1.
Advocate Sanjay Chaturvedi appeared for Complainants in Complaints at
Sr. No. 2 to 4.
Adv. Sarika Tripathi appeared for the respondent.

ORDER

(6th August, 2019)

1. The above 4 complaints have been filed by the allottees in the project registered with MahaRERA bearing No. P51800006989 known as "**Gokul Satya**" at Vile Parle (West), Mumbai, under Section-18 of the Maharashtra Real Estate (Regulation and Development) Act, 2016



(hereinafter referred to as "the RERA Act, 2016). They are seeking directions from the MahaRERA to the respondent to pay interest for the delayed period of possession in respect of booking of their flats in the said project of the respondent and also possession of their respective flats with occupancy certificate. As per the registered agreements for sale, executed between them, the respondent was liable to handover possession of the flats to the complainants on different dates starting from January, 2017. However, the respondent has failed to handover the possession of the flats to the complainants so far. The complainants at Sr No. 2 to 4 have also raised an objection with regard to the extension sought by the respondent for completion of this project.

2. These complaints have been filed with respect to the same project. Hence, the same were clubbed together and heard on several occasions and the final hearing is held today. During the hearings, the complainant have argued that they had booked their respective flats in the respondent's project and the registered agreement for sale were also been executed between both the parties. According to the said agreements for sale, the respondent was liable to hand over possession of the said flats to the complainants from January, 2017. However, till date the respondent has not handed over the possession of the said flats to the complainants. Hence the complainants requested to grant relief under section-18 of the RERA Act, 2016 directing the respondent to pay interest for the delayed possession.
3. The complainant further argued that the respondent has completed construction on site upto 80% and without their knowledge, he has extended the date of completion upto May, 2020 for second time, which is not acceptable to them. They further argued that the justification of delay cited by the respondent is nothing, but, perjury as false statement has been made by the respondent regarding the appointment of court receiver in respect of this project.

4. The respondent disputed the claim of the complainants and argued that there is no intentional delay on the part of the respondent for handing over possession of the said flat to the complainants. It further argued that the said project got delayed, especially due to the High Court order in Suit (L) No. 1242 of 2018 for appointment of Court Receiver with respect to his 6 properties, due to which it could not complete the project for want of fund. Since its properties are under the Court Receiver, the respondent could not raise funds to complete this project. The respondent further argued that the extension has been granted by the MahaRERA and therefore, the complainants can not question that. Further, it has taken meaningful steps to complete this project. However, some time is required to complete this project and the payment of interest is not possible at this stage.
5. The MahaRERA has examined the arguments advanced by both the parties as well as the records. In the present case, admittedly, there are registered agreements for sale executed between the complainants / allottees and the respondent / promoter in which the date of possession was mentioned starting from January, 2017 and till date, the possession is not given to the complainants, though amount has been paid by them. It shows that the respondent has violated the provisions of section-18 of the RERA Act, 2016 and the rules made there under. To justify its case, the respondent has argued that the project got delayed due to the change in government policy.
6. The reason cited by the respondent cannot be accepted at this stage and the respondent cannot blame the Court Order due to which he is facing financial problem and reason for non-completion of work pending at site. The said reasons cited by the respondent are not covered under the force majeure clause. There is no fault on the part of the complainants, who have put their hard earned money for booking of the said flats in the respondent's project. The respondent argued that the project got delayed due to acute financial constrains, which were

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beyond his control. The respondent has not given any plausible reasons for the alleged delay.

7. Even all the factors pointed out by the respondent, due to which the project got delayed are taken into consideration, there was enough time for the respondent to complete the project before the relevant provisions of Real Estate (Regulation & Development) Act, 2016 came into force on 1st May, 2017. The respondent is, therefore, liable to pay interest to the complainant for delay in accordance with the provision of section-18 of the RERA Act, 2016.
8. In view of above facts and discussion, the respondent is directed to pay interest to the complainants from the date of possession mentioned in the registered agreements, executed with the complainants herein, 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. Since the project is nearing completion, the MahaRERA directs that the actual amount payable to the complainants towards the interest shall be adjusted with the balance amount payable by the complainants, if any, and the same shall be paid at the time of possession.
9. With regard to the extension granted by MahaRERA in favour of respondent till May, 2020, the MahaRERA feels that the same has been granted by taking into consideration the provisions of RERA Act, 2016 as well as the reasons cited by the respondent. Therefore, the same can not be considered at this stage.
10. With these directions, all the above four complaints stand disposed of.



(Dr. Vijay Satbir Singh)
Member – 1/MahaRERA