

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

Complaint No. CC006000000055356

Manan Mukesh Shah

..... Complainant

Versus

PSC Properties Pvt Ltd

..... Respondent

Project Registration No. **P51800001932**

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

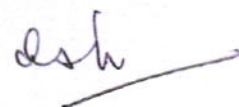
The complainant present in person.

Mr. Joshi appeared for the respondent.

ORDER

(29th July, 2019)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent to pay interest for the delayed possession u/s 18 of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the RERA Act, 2016") in respect of booking of a flat No. B-803 in the respondent's project known as "**Prayog**" bearing MahaRERA project registration No. P51800001932 at Santacruz (East), Mumbai.
2. The matter was heard on several occasions and the same was heard finally on 31st May, 2019. During the course of hearings, the parties sought time for amicable settlement. However, the parties failed to reach an amicable solution. Hence the matter was heard on merits.
3. The complainant also prayed for refund of entire amount paid to the respondent along with interest and compensation. The matter was referred to the Adjudicating Officer, MahaRERA; but, it was sent back for hearing.

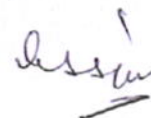


4. It is a case of the complainant that he had booked the said flat for a total consideration amount of ₹ 2,62,30,000/- plus various taxes. The complainant has argued that according to the agreement, the respondent was liable to handover possession of the flat to him with occupancy certificate on or before 31st December, 2017. However, the respondent failed to hand over the possession of flat on that day. Hence, the complainant filed this complaint and prayed for interest under section-18 of the RERA Act, 2016.
5. The respondent, on the other hand, disputed the claim of the complainant and argued that they have completed the construction of the said building in a time bound manner and obtained part occupancy certificate on 12th April, 2017. After compliance of terms and conditions of occupancy certificate, the respondent applied for full occupancy certificate for remaining portion on 7th May, 2018, which was granted on 30th October, 2018. The respondent further argued that though he had complied with all requisite permissions, the competent authority withheld the same for more than five months and hence, the project got delayed.
6. During the hearings, the MahaRERA issued notice and called upon the Deputy Chief Engineer – H (BP) department, MCGM to submit report with regard to occupancy certificate. Accordingly, the concerned officer of MCGM appeared for hearing on 1st November, 2018 and submitted it's report dated 31st October, 2018 on record. In the said report, the competent authority has informed that part occupancy certificate for 4 flats on 8th floor including the complainant's flat was issued on 30th October, 2018.
7. In the present case, the respondent has submitted a letter dated 1-11-2018 and informed that since he has obtained occupancy certificate for the said flat on 30-10-2018 and before taking possession of the said flat, the

Chs'u

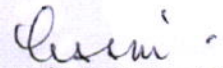
complainant is liable to pay an amount of ₹ 14,12,521/- towards the balance amount. Accordingly, the respondent offered possession of the said flat to the complainant vide letter 9th April, 2019 and the complainant has taken the possession of his flat by signing the possession letter.

8. In this case, the respondent had obtained occupancy certificate for entire flats excluding the flats on 8th floor of wing –B of the said building on 12-04-2017. The part occupancy for few flats including the complainant's flat was withheld due to pending issues of road set back as well as the property card. The respondent applied for part occupancy for the remaining floor on 7-05-2018. However, he got the part occupancy certificate for the remaining flats including that of the complainant's flat on 30-10-2018, when the MahaRERA had issued hearing notice to the competent authority, viz., the MCGM. The MahaRERA is of the view that obtaining all requisite permissions for the project is the responsibility of the respondent being promoter. The complainant is not at all concerned with such issues.
9. Moreover, the complainant has put his hard earned money for purchase of the said flat and waiting for possession for the last many years. Therefore, the MahaRERA feels that the complainant is entitled to seek interest for the delayed possession under the provisions of section-18 of the RERA Act, 2016. However, during pendency of this complaint, the complainant has taken possession of his flat with occupancy certificate in the month of April, 2019.
10. Even if 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 RERA 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.



11. In the light of these facts, the MahaRERA directs the respondent to pay interest to the complainant on actual amount paid by him, as provided under section-18 of the RERA Act, 2016 and the Rules and Regulations made there under, from the period commencing from 1st January, 2018 till the date of occupancy certificate is issued by the concerned competent authority i.e. 30-10-2018. The respondent can recover the outstanding dues payable by the complainant at the time of possession, if any, from the complainant with applicable interest as prescribed under the RERA Act, 2016 and the rules and regulations made there under.

12. With these directions, the present complaint stands disposed of.


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