

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

**COMPLAINT NO: CC0060000000023848.**

**Yogesh Dhondu Juwatkar**

**... Complainant.**

**Versus**

**Prakash Laxman Kharude  
(Balaji Kashish Park)**

**... Respondents.**

**MahaRERA Regn: P52000014254**

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

**Appearance:**

Complainant: In person.

Respondents: Adv. Hemant M. Salunke.

**FINAL ORDER**

**14<sup>th</sup> August 2018.**

The complainant contends that the respondents agreed to hand over the possession of his booked flat no. C-302 of their registered project Balaji Kashish Park, New Panvel, in December 2016. He wants to continue in the project and claims rent from the date of default till the possession of the flat is handed over, under Section 18 of RERA.

2. The respondents have filed their reply to deny that they agreed to hand over the possession of the flat till December 2016. They further submit that the complainant simply paid booking amount of Rs. 6,84,880/- and the balance of Rs. 35,49,600/- was to be paid till December 2016 but the complainant did not pay it. They further contended that as per the practice of the Finance Co., they issue payment only on completion of the building. They do not pay any excess amount. Therefore, the complaint be dismissed.



3. Following points arise for determination and findings thereof are as under:

| <b>POINTS</b>  | <b>FINDINGS.</b>   |
|--|--------------------|
| 1. Whether the respondents failed to hand over the possession of booked flat on agreed date?                           | Affirmative.       |
| 2. Whether the complainant is entitled to get rent on respondents' failure to hand over the possession on agreed date? | No. Only interest. |

#### **REASONS**

4. The respondents have not disputed the fact that they have entered into agreement for sale of flat no. C-302. The copy of the agreement is produced by the complainant, in its paragraph-14 only the year of possession 2016 is mentioned but the complete date is not mentioned. As per Section 4 (1A)(a)(ii) of Maharashtra Ownership Flats Act, the respondents were required to mention the date of possession in the agreement. Even after taking the view favourable to the respondents, I find that at the end of 2016, they were required to hand over the possession. Admittedly, the project is incomplete and possession of the flat has not been given till the date. Hence I hold that the respondents agreed to hand over the possession by end of 2016 and they did not hand over the possession of the flat as agreed.

5. The complainant has filed the payment details marked Exh. 'A' showing that the complainant has paid Rs. 28,39,950/- to the respondents before 31.12.2016. Thereafter, he paid Rs. 3,54,690/- on 24.08.2017. As per the provisions of Section 18, the complainant is entitled to get interest on these amount at prescribed rate. The rules framed under the Act have prescribed the rate of interest which is 2 % above SBI's MCLR. It is currently 8.5%. The complainant is also entitled to get Rs. 20,000/- towards the cost of the complaint. Hence the order.



## ORDER

The respondents shall pay simple interest at the rate of 10.5% p.a. on 28,39,950/- from 01.01.2017 and on Rs. 3,54,960/- from 24.08.2017 for every month of delay till handing over the possession of the flat to the complainant.

The respondents shall pay the complainant Rs. 20,000/- towards the cost of the complaint.

Mumbai.

Date: 14.08.2018.



(B. D. Kapadnis)  
Member & Adjudicating Officer,  
MahaRERA, Mumbai.