

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

**Complaint No.CC005000000022106**

**Vinod Deokar**

**.. Complainant**

**Versus**

**Gagan Horizon Venture**

**.. Respondent**

**Coram : Shri M.V. Kulkarni  
Hon'ble Adjudicating Officer**

**FINAL ORDER  
06-02-2019**

1. The Complainant who had booked a flat with the respondent / builder prays for compensation for not delivering possession as per agreement, in the proforma complaint.
2. The complainant has alleged that he booked flat No.302 in building A-5 in the project Gagan Akankasha at Koregaon (Mul) Urall Kanchan in Pune. The price was fixed at Rs.14,04,300/- excluding stamp duty, registration charges etc., Agreement was executed on 3-4-2013. Date of delivery of possession was 31-3-2015. Complainant has paid all the consideration amount. However, respondent has miserably failed to

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hand over possession of the flat as per the agreement. Respondent was unable to explain inordinate delay. After number of oral requests respondent decided to give Rs.3,000/- per month to the complainant since 16-8-2017. Respondent refused to compensate complainant since 1-4-2015 which was the date for delivery of possession. The compensation paid by the respondent is meagre. The complainant has so far received Rs.75,000/- from respondent. The complainant therefore seeks compensation from the respondent. In para-11 of detailed complaint it is mentioned that complainant does not want to withdraw from the complaint.

3. The complaint came up before me on 7-1-2019. The respondent failed to appear. Heard Advocate Amol Lokhande for the complainant.
4. Following points arose for my determination. I have recorded my findings thereon for the reasons given below.

### **POINTS**

### **FINDINGS**

1. Has the respondent committed default in handing over possession of the flat to complainant as per agreement without there being circumstances beyond his control?

Yes

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2. Is the complainant entitled to reliefs sought? Yes

3. What order? As per final order

### REASONS

5. **POINT Nos. 1 & 2** :- Shri Lokhande has submitted that complainant booked flat on 9-4-2012 by paying booking amount of Rs.43,392/-. Agreement was executed on 3-4-2013. The agreement is placed on record. Total consideration of Rs.14,04,300/- was to be paid before execution of agreement. As per clause-20 date for possession is 31-3-2013. If the promoter failed to deliver possession, he was liable on demand to return the money with interest @ 9% per annum from the date of receipt of money. The respondent has failed to challenge contention of the complainant that he failed to deliver possession as per agreement without there being circumstances beyond his control. I therefore answer point No.1 in the affirmative.

6. There is a receipt issued by the respondent dated 23-3-2013 for the price of Rs.14,04,300/-. Stamp duty, registration charges, VAT amount, service tax amount was also acknowledged to have been received. As per agreement date of delivery of possession was 31-3-2015. The respondent has failed to deliver possession without any justification. The complainant has alleged that respondent is

*f-279*



paying compensation of Rs.3000/- per month from 16-8-2017 which is meagre. His grievance is that compensation should have been paid since 1-4-2015 as the date for possession was 31-3-2015. Under Section-18(1) proviso-where an allottee does not intend to withdraw from the project he shall be paid by the promoter, Interest for every month of delay till handing over the possession at such rate as may be prescribed. Under Rule-18 of Maharashtra Rules rate of Interest payable by promoters to allottees shall be SBI highest MCLR + 2%. Therefore complainant will be entitled to claim Interest @ 10.70% per annum which will come to about Rs.1,50,000/- per month on the amount of Rs.14,04,300/- which will be about Rs.12,000/- per month. It appears that respondent is paying meagre amount of Rs.3000/- per month. I therefore answer point No.2 in the affirmative and proceed to pass following order.

#### **ORDER**

1. The Respondent shall pay Interest on Rs.14,04,300/- to the complainant @ 10.70% per annum since 01-04-2015 till possession is delivered or notice about occupation certificate is sent to the complainant.

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2. The amount already paid by respondent towards monthly compensation be deducted from the above amount.
3. The respondent shall pay costs of Rs.20,000/- to the complainant.
4. The respondent shall pay the due amount within 30 days from the date of this order.

Pune  
Date :- 06.02.2019

*MB 6.2.2019*  
(M.V.Kulkarni )  
Adjudicating Officer,  
MahaRERA