

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000000382

AASHISH GURAV ... Complainant.
Versus
KAILAS PATIL ... Respondent.

MahaRERA Regn: P51700006977

Coram: Hon'ble Shri B.D. KAPADNIS.

05th October 2017

Final Order

The complainant has filed this complaint u/s. 18 Real Estate (Regulation & Development) Act, 2016 (for short, RERA) for getting compensation on account of the respondent's failure to give the possession of his booked flat no. 301 in the respondent's project 'Kailas Heights' situated at Kalwa, Dist. Thane.

2. The complainant contends that the respondent is the proprietor of Ms. Trinity Construction company which launched the aforesaid project. The respondent executed the agreement of sale of the said flat on 13.05.2011 and agreed to give the possession of the said flat within 18 months from the date of agreement. However, for one reason or the other he avoided to complete the construction of the building and give possession of the booked flat. Hence the complainant claims a compensation amounting to Rs. 15 lacs towards the house rent of last five years and the mental harassment. He also claims the future house rent at the rate of Rs. 18,000/- per month till he gets the possession.

3. Respondent has failed to appear despite the service of the notice hence, the matter proceeds exparte against him.

4. I have heard the complainant and perused the documents produced by him.

5. Only point that arises for my consideration is, whether the respondent has failed to deliver the possession of the flat on the agreed date and if yes, whether the complainant is entitled to get compensation or the interest on his investment u/s. 18 of RERA?



6. The complainant has produced the copy of index II to show that the respondent executed the agreement of sale of the above numbered flat in his favor on 13.05.2011 Page no. 14 of the agreement shows that respondent agreed to give possession of the flat within 18 months from the date of agreement. The contention of the complainant has not been challenged by the respondent by not appearing to contest the case. I find that the respondent has failed to deliver the possession on the agreed date and hence, he incurs the liability u/s. 18 of RERA to pay interest on the amounts paid by the complainant and in case of special damage, compensation also.

7. Complainant has failed to prove that he has incurred special loss or damage hence, he is not entitled to get compensation. However, the complainant is entitled to get simple interest at the rate of marginal cost of lending of SBI which is currently * 8.15% plus 2% p.a. on the amounts paid by him to the respondent in context of this transaction from the respective dates of the payment. The complainant has produced the receipts dated 27.02.2011, 01.05.2011, 22.06.2011, 22.01.2016 and 13.11.2016 showing the payment of Rs. 50,000/-, 5,50,000/-, 15,00,000/-, 5,90,000/-, 62,490/-. Thus he paid Rs. 27,52,490/- to the respondent. In result, the order.

Order.

The respondent shall pay the complainant the monthly simple interest at the rate of * 8.15% plus 2% p.a. on Rs. 27,52,490/- from the date of default i.e. from 13.11.2012, till he delivers the possession of the flat to the complainant.

The respondent shall clear the interest accrued till 30.09.2017 within one month of this order together with Rs. 10,000/- towards the cost of the complaint.



(B.D. Kapadnis)

(Member & Adjudicating Officer)

MahaRERA, Mumbai

Mumbai
Date: 05.10.2017.

*8.15% Corrected as per the order passed on 16.10.2017 u/s. 39 of RERA.