

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

COMPLAINT No: CC005000000011365

Mr. Ajit Deshpande & 14 ors

..... Complainants

Versus

M/s. D. S. Kulkarni Developers Ltd & 5 ors

MahaRERA Registration No. P52100005158

..... Respondent

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

Adv. Tanmay Ketkar appeared for the complainants.
None appeared for the respondent.

Order

(15th June, 2018)

1. The complainants have filed this complaint seeking directions from this Authority to the respondent to give early possession of their flats, pay the GST that would be applicable for the remaining amount of consideration and also to pay interest for the delayed possession in respect of booking of their respective flats in the building known as "DSK Anandghan", bearing MahaRERA registration No. P52100005158 at Pune.
2. The complainants have argued that they purchased their respective flats vide registered agreements for sale and have also paid part consideration towards the cost of their flats. As per the terms of the agreements, the respondents agreed to deliver the possession their flats to the complainants by 31st December 2016. However, till date the promoter has failed to hand over possession of their respective flats. Hence, the present complaint has been filed.
3. This matter was heard on 20-04-2018, 8-05-2018 and 21-05-2018. Though the hearing notice was duly served upon the respondent, they could not bother to appear before this Authority for hearing. It shows that the respondents are not

willing to contest this matter. Hence, this Authority has no other alternative but to proceed with *ex parte* against the respondents.

4. In this case, admittedly the respondents have executed registered agreements for sale with the complainant's allottees and committed date of possession of their respective flats as 31st December 2016. However, till date the possession of the flats have not been handed over to the complainants. Therefore, this Authority feels that the respondents have breach the provision of section 18 of the Real Estate (Regulation & Development) Act, 2016 and they are liable to pay interest to the homebuyers.
5. This Authority also feels that the payment of interest on the money invested by the home buyer is not the penalty, but a type of compensation for delay as has been clarified by the Hon'ble High Court of Judicature at Bombay in above cited judgment dated 6th December, 2017 passed in W.P. No. 2737 of 2017. The respondents are liable to compensate the home buyer accordingly.
6. In the above facts and circumstances of this case, this Authority directs the respondents, to pay interest to the complainants for the delayed possession at the prescribed rate under RERA Act, 2016, and the Rules made there under from 1st May, 2017 till the actual date of possession on the total amount paid by the complainants. The said interest shall be payable for every month of delay as prescribed under the Real Estate (Regulation & Development) Act, 2016 and Rules made there under.
7. With these directions, the complaint stands disposed of.



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