

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000057000

Vijay Babusing Pawar

... Complainant

Versus

Propel Developers Pvt Ltd
MahaRERA Regn. No. P51800000271

... Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented by Adv. Minal R. Lad.

Respondent was represented by Mr. Abir Patel, Adv. (i/b Wadia Ghandy & Co.).

Order

February 18, 2020

1. The Complainant has purchased an apartment bearing Nos. 3504 in the Respondent's project 'Runwal Greens Wings 5 - 8' situated at Mulund, Mumbai via registered agreements for sale dated March 5, 2015 (*hereinafter referred to as the said agreement*). The Complainant further states that he had purchased the said apartment under a subvention scheme and as per the subvention scheme, the Complainant was to pay the EMI for the loan so procured, only upon the receipt of the possession of the said apartment. Further, he has stated that the Respondent has not only failed to handover possession as per the date stipulated by the said agreement but has also failed to pay the Pre EMI instalments under the subvention scheme, which is now being recovered from the Complainant by the Bank. Therefore, he prayed the Respondent be directed to pay him interest and the pre-emi interest under the subvention scheme.
2. The Learned Counsel for the Respondent submitted that the Part Occupation Certificate for this Project was obtained on July 7, 2018 before the said complaint was



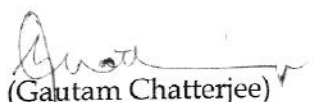
filed, hence the provisions of Section 18 of the Act will not apply. He also submitted that the Respondent has already offered possession to the Complainant in July, 2018. Further, he submitted the as per the tripartite agreement executed between the parties and the bank, pre-emi was to be borne by the Respondent only till August 2016 and thereafter the onus to pay the same was on the Complainant, irrespective of the stage of project completion.

3. Section 18 (1)(a) of the said Act reads as:

“ if the promoter fails to complete or is unable to give possession of an apartment, plot or building, – (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that 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 the handing over of the possession, at such rate as may be prescribed. ”

Simple present tense used in the starting line of Section 18 clearly indicates that the provision shall apply only till the project is incomplete or the promoter is unable to give possession. Once the project construction is complete or possession is given, as the case may be, the said provision ceases to operate.

4. In view of the above facts, the Respondent is not liable to pay interest on delay to the Complainants, as per section 18 of the Real Estate (Regulation and Development) Act, 2016. The Complainant is advised to take possession of his apartment. Payment of pre-emi will be governed by the tripartite agreement executed between the parties.
5. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA