

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

**COMPLAINT NO: CC006000000100434.**

Surak Kishore Khubchandani ... Complainant.

**COMPLAINT NO: CC006000000100438.**

Bhimji Nanji Patel ... Complainant.

**COMPLAINT NO: CC006000000100439.**

Bhimji Nanji Patel ... Complainant.

**Versus**

Orbit Ventures Developers ... Respondent.

**MahaRERA Regn: P51800005666.**

**Coram:** Shri B.D. Kapadnis,  
Member-II, .

**Appearance:**

Complainant: Adv. Mr. Parmindar Singh Malhi.

Respondents: Absent.

**FINAL ORDER**

**18<sup>th</sup> November, 2020**

The complainants have booked their flats in the respondent's registered project 'Shikhar' situated at Andheri West. The complainants contend that the respondent has failed to handover the possession of their flats on agreed dates. Therefore, they have been claiming interest on their investments for delayed possession under section 18 of the RERA. The necessary information furnished by parties is as under.



Names of the complainants	Flat Nos.	Agreed dates of possession	Amount Paid	Amount of consideration acknowledged by respondents
Surak Kishore Khubchandani CC006000000100434	602	June 2016	Rs. 1,71,81,000/-	Rs.1,71,81,000/-
Bhimji Nanji Patel CC006000000100438	2702	December 2016	Rs. 4,29,40,819/-	Rs. 4,25,00,028/-
Bhimji Nanji Patel CC006000000100439	2802	December 2016	Rs. 4,45,94,606/-	Rs. 4,25,00,028/-

2. The respondent has pleaded not guilty and filed reply to contend that the supplementary agreements have been executed and the terms and conditions contained therein will govern the transactions. The respondent contends that it scheduled to complete the project by 31.12.2019 and in the month of October- November 2019 itself it applied for occupancy certificate, but it is still awaited. The complainants delayed the payment therefore as per terms of the agreement, it is entitled to get interest at the rate of 24% p.a. on delayed payment. Therefore, it requests to dismiss the complaint.

3. Heard the Ld. Advocate of the complainants Mr. Parmindar Singh Malhi. The respondent did not appear despite the notices on 01.01.2020 and 30.03.2020 and today on 18.11.2020. Perused the documents placed on record. It is seen from the documents produced by the complainants that the, respondent has failed to handover the possession of their flats on agreed dates. Section 18 of the RERA provides that, when the promoter fails to handover or to complete the apartment on the date specified in the agreement for sale for handing over the possession, then the allottee gets



the right to claim interest on his investment from agreed date of possession till getting the possession of the flat. The complainants have exercised this right. Therefore, I find that the complainants are entitled to get the interest at prescribed rate on the amount of consideration paid by them before the date of possession, from the date of possession and on the consideration amounts subsequently paid from the dates of their payments till getting the possession of their flats with all agreed amenities and with occupancy certificate / completion certificate, as the case may be. The prescribed rate of interest is 2% above SBI's highest MCLR which is currently 7% p.a. The complainants are also entitled to get Rs. 20,000/- towards the cost of the complaint.

4. Respondent claims interest at the rate of 24% p.a. on delayed payment. Interest is defined by section 2 (zn) of RERA, it provides that the rate of interest should be equal for both the parties. Respondent has failed to hand over the possession on agreed dates. The respondent is liable to pay interest at prescribed rate for delayed possession, therefore it is also entitled to recover the interest at the same rate for delayed payments. It would have been liable to pay interest on such payment had it been made in time. Therefore, no practical purpose would be served by granting any such relief as respondent would recover the interest on delayed payment by one hand and it would have to return it by other hand for delayed possession. Moreover, there is no specific proof about the delayed payments. Hence its prayer is rejected. In result, the following order.

#### **ORDER**


1. The respondent shall pay interest at the rate of 9% p.a. on the amount of consideration paid by the respective complainants on or before the agreed date of possession of their flats from those dates and on



the amount of consideration subsequently paid from the dates of those payment till handing over the possession of their flats with all agreed amenities and with occupancy certificate / completion certificate.

2. The respondents shall also pay Rs. 20,000/- to each complainant towards the cost of their complaint.
3. The parties are at liberty to adjust their respective claims and pay the balance, if any, to whom it is due.
4. Original order is kept in CC006000000100434 filed by Surak Kishore Khubchandani and photostat copies are kept in other two complaints.

Date: 18.11.2020.

  
18.11.2020.  
(B. D. Kapadnis)  
Member-II,  
MahaRERA, Mumbai.