

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

Complaint No. CC006000000078872

Mr. Kailas Ramji Veera & 3 Ors.

.... Complainants

Versus

M/s. Sunshine Housing Pvt. Ltd.

.... Respondent

Project Registration No. P51800009515

Coram: Dr. Vijay Satbir Singh, Hon'ble Member – I/MahaRERA

Adv. Neel Gala appeared for the complainants.

Adv. Krupashree Sawant appeared for the respondent.

ORDER

(13th March, 2020)

1. The complainants have filed this complaint seeking directions from MahaRERA, to the respondent, to pay the interest for delayed possession, under section 18 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as RERA), in respect of the booking of two flats bearing no. 301 on the 3rd floor, admeasuring 74.08 sq. mtrs., in wing 'D' along with 2 car parking and 1201 on the 12th floor, admeasuring 42.41 sq. mtrs., in wing 'C' along with one car parking, in the respondent's project known as **"Samriddhi Garden Wing C Gulmohar Wing D Deodhar"** bearing MahaRERA registration No. P51800009515 situated at Bhandup (West), Mumbai.
2. This complaint was heard on several occasions in the presence of concerned parties. During the hearing, both the parties appeared through their respective Advocates and made their oral as well as written submissions on record of the MahaRERA.
3. It is the case of the complainants that, they purchased the said flats in the respondent's project vide two registered agreements for sale dated 27/07/2015 for both the flats for a total consideration of Rs. 1,76,00,000/- for flat no. 301

and Rs. 90,00,000/- for flat no. 1201. According to the said agreements for sale, the respondent was liable to hand over the possession of the said flats to the complainants on or before 31st March 2018. The complainants have paid the entire consideration for both the flats to the respondent. However, the respondent has failed and neglected to hand over the possession of the same to them within the stipulated time period. They have been following up with the respondent regarding the possession of the flats. However the respondent has not responded to the same and hence, they issued a legal notice dated 05/03/2019 to the respondent through their advocate, which is also not replied by the respondent. Hence the present complaint has been filed seeking interest for delayed possession as well as cost of the complaint.

4. The respondent, during the course of hearing though has filed a reply on record of MahaRERA, has not made any averments with regard to the allegations made by the complainants in this complaint seeking reliefs under section 18 of the RERA. However, it has mentioned as to how it has taken over the project from the erstwhile promoter by filing consent terms on record of Hon'ble Supreme Court of India.
5. The MahaRERA has examined the arguments advanced by both the parties as well as the record. The present complaint was filed by the original allottee late Mr. Kailas Veera, who expired during the course of hearing and therefore, his legal heirs have filed chamber summons dated 18-11-2019 on record of MahaRERA to bring his legal heirs on record of this complaint. The same was accepted and accordingly, the complainants have amended this complaint.
6. The complainants have filed this complaint seeking interest for the delayed possession under section 18 of the RERA, as the agreed date of possession

mentioned in the registered agreements for sale dated 27-07-2015 has lapsed. The complainants have purchased two flats in this project by executing the said agreements for sale. According to the same the respondent was liable to hand over possession of the said flats to the complainants on or before 31-03-2018, and till date the possession is not given to the complainants, though substantial amount has been paid by them. Prima facie it shows that the respondent has violated the provisions of section 18 of the RERA Act, 2016 and the rules made thereunder. In the reply filed by the respondent on record, no plausible explanation for alleged delay has been given by the respondent to justify its case but the respondent has simply stated that it has acquired this project from erstwhile developer. However, the respondent has sold the said flats to the complainants by executing the agreements for sale on 27-07-2015 and committed date of possession of the said flats was mentioned as March, 2018. Even it has registered the said project with MahaRERA after commencement of RERA. Hence the justification cited by the respondent has no legal substance.

7. In view of the aforesaid facts, the MahaRERA feels that the reason stated by the respondent cannot be accepted at this stage, as they are not covered under the force majeure clause. There is no fault on the part of the complainants who have put their hard earned money for booking of the said flats in the respondent's project. The respondent has not given any plausible explanation for delay.
8. Even if all the factors pointed out by the respondent due to which the project got delayed are taken into consideration, there was enough time for the respondent to complete the project before the relevant provisions of Real Estate (Regulation & Development) Act, 2016 came into force on 1st May, 2017.

The respondent is, therefore, liable to pay interest to the complainants for delay in accordance with the provision of section 18 of the RERA Act, 2016.

9. In view of above facts and discussion, the respondent is directed to pay interest to the complainants from 1st April, 2018 till the actual date of possession on the actual amount paid by them at the rate of Marginal Cost Lending Rate (MCLR) plus 2 % as prescribed under the provisions of Section-18 of the Real Estate (Regulation and Development) Act, 2016 and the relevant Rules made thereunder. Since the project is nearing completion the MahaRERA directs that the actual amount payable to the complainants towards the interest shall be adjusted with the balance amount payable by the complainants if any and same shall be paid at the time of possession.
10. With these directions, the complaint stands disposed of.



(Dr. Vijay Satbir Singh)
Member – 1/MahaRERA