

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

**COMPLAINT No: CC006000000057666**

Mr. Umesh Mehta

.... Complainant

**Versus**

M/s. Pioneer Housing Pvt Ltd

.... Respondent

MahaRERA Registration No - P51800008478

**Coram: Dr. Vijay Satbir Singh, Hon'ble Member-1/MahaRERA**

Adv. Shreyas Rao appeared for the complainant.

Adv. Anwar Landage appeared for the respondent.

**ORDER**

(24<sup>th</sup> December, 2019)

1. The complainant has filed this complaint seeking directions from the MahaRERA to the respondent to pay interest for the delayed possession under the provision of section-18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "RERA") in respect of booking of the flat Nos. 1007 and 1008 on 10<sup>th</sup> floor in the building known as "Sanino" in the respondent's project known as "Senroofs" bearing MahaRERA registration No. P51800008478 at Kurla, Mumbai. The complainant also sought relief under section-11(4)(e) of the RERA.
2. This complaint was heard on several occasions and the same was heard finally on 10-12-2019. During the hearings, both the parties sought time to settle the matter amicably and also to file their respective submissions and in compliance with the principles of natural justice, adequate time has been granted to both the parties, to file the same in support of their claim.
3. It is the case of the complainant that he had booked the said flats in the respondent's project for a total consideration amount of Rs. 41,90,500/- for flat No. 1007 and Rs. 53,29,500/- for flat No. 1008. The respondent had



executed the registered agreements for sale with the complainant on 20-08-2013. According to the said agreements, the respondent was liable to handover possession of the said flats to the complainants on or before 20-03-2015. However, though he has paid outstanding dues as and when demanded by the respondent, till date the respondent has not given possession of the said flats to the complainant. Moreover, though more than 51% flats have been sold, the respondent has not taken any steps to form a society of the allottees as required under section-11(4)(e) of the RERA. Hence, the complainant has filed this complaint and sought the relief as prayed for in this complaint.

4. The respondent filed reply on record and resisted the claim of the complainant by raising various defenses. The respondent mainly raised the issue that the project has completed and full occupancy certificate has been granted by the competent authority on 19-12-2018. The complainant has filed this complaint after completion of this project. Thereafter, it has offered possession to the complainant and the complainant has taken possession of the said flats by signing written undertaking dated 5-05-2019. By signing the said undertaking, the complainant has waived of his rights/claim under the provision of the RERA. However, the present complaint is filed just to grab money from the respondent by using the MahaRERA as mechanism. Hence, the respondent prayed for dismissal of this complaint. With regard to the alleged delay, the respondent has stated that the project got delayed mainly due to passing of the high tension line near the building and to obtain the NOC from the concerned authority, the permissions were delayed by the competent authority. The said delay was beyond their control.
5. The MahaRERA has considered the arguments advanced by both the parties as well as record. In the present case, admittedly, the complainant is an allottee of the MahaRERA registered project of the respondent, who purchased the said flats by executing the registered agreements for sale with the respondent. According to the said agreements, the respondent was

liable to handover the possession of the said flats to the complainant on or before 20-03-2015. However, possession was not given to the complainant on the agreed date of the possession by the respondent. The present complaint has been filed by the complainant seeking interest for the delayed possession.

6. In the present case the MahaRERA has noticed that the respondent has already obtained occupancy certificate for the complainant's flats and also handed over possession of the flats to him, which has been duly accepted by the complainant by signing undertaking dated 5-5-2019. The respondent has annexed the said undertaking on record of MahaRERA. Moreover, the complainant has filed this complaint in the month of January, 2019, i.e. after completion of the project and also obtaining the occupancy certificate.
7. In this regard, the MahaRERA has perused the provisions of section- 18(1) of the RERA, which reads as under:

**18. (1) 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; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, 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."**

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8. The aforesaid provisions of section-18 stipulates that if the promoter fails to complete the project or unable to handover possession of the flat to the allottee on the agreed date of possession, the promoter is liable to pay interest for the delayed possession. However, in the instant case, the respondent has completed the said project and obtained occupancy certificate on 19-12-2018 and even handed over possession of the flats to the complainant. The delay in filing this complaint has also not been explained by the complainant while filing this online complainant or at the time of arguments. Considering all the facts of the case, the MahaRERA feels that the provisions of the section-18 would not attract in this case and the complainant would not be entitled to seek interest for the delayed possession under section-18 of the RERA.
9. With regard to other relief sought by the complainant for formation of the society, under section-11(4)(e) of the RERA, the MahaRERA feels that since the project has completed, the respondent has to comply with all mandatory duties including the formation of society of the allottees under section- 11(4) (e) of the RERA.
10. With these observations, the complaint stands dismissed for want of merits.



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