

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

COMPLAINT No: CC006000000000693

Mrs. Asha Mall Complainant

Versus

Mr. Shahaji Baba Javir

MahaRERA Registration No - P51700004830

..... Respondent

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

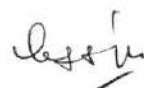
Complainant appeared in person.

Advocate Mr. Nagraj Hoskari, appeared for the respondent

Order

(23rd May 2018)

1. The complainant has filed this complaint seeking directions to the respondent to give early possession of her son's flat in the MahaRERA registered project bearing No. P51700004830 and to pay interest/compensation for delay in handing over the possession.
2. It is the case of the complainant that her son booked a flat in Nitin Enclave at Airoli in June 2008 for a total consideration amount of Rs. 27,59,000/-. Accordingly, an agreement was also executed and registered on 13-06-2008, having the agreed possession date before March 2009. Due to some dispute between the respondents and the land owner, the construction of the building was stopped in 2009. Since then, the construction work was never resumed and none of the allottees got possession of his flat. Multiple complaints and notices were sent through lawyers and a number of cases are pending in court but nothing happened. No action was taken against him. The complainant further stated that her son had taken home loan for his flat. The repayment



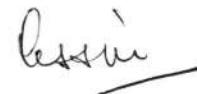
of loan is already over, but the possession of the flat is yet to be given by the respondent.

3. This matter was heard by this Authority on various occasions. The complainant is also seeking compensation for the delayed possession. Hence the matter was sent for adjudication. However, the Ld. Adjudicating Officer felt that the main prayer of the complainant was the payment of interest and since the complainant was no longer interested in compensation, the case was sent back for appropriate order. Thereafter both the parties were given sufficient time to settle the matter amicably. In spite of several meetings by them, they could not reach any mutually acceptable solution. Hence, this matter was finally heard on merits. During hearings, the complainant has reiterated her contention and requested this Authority to direct the respondent to pay interest for the delayed possession.
4. The respondent has stated that due to dispute between the respondent and the landowners, the project got delayed and the said delay was beyond their control. He further stated that he has been allotted the plot by CIDCO in 12.5% scheme of Project Affected Persons (PAPs). However, subsequently, the ownership disputes arose in respect of the said plot and litigation was filed by the concerned owners before the civil court. After such a long period, now the same is settled and they will be in a position to complete the project by June 2018, which is date given by the respondent as revised date of completion of project to MahaRERA. The respondent further stated that the project is nearing completion and he will hand over the possession of the flat to the complainant by June 2018. In addition to the aforesaid facts, the respondent has stated that he is ready and willing to refund the entire amount paid by the complainant with the applicable interest, since he is unable to pay interest to the complainant.
5. It is clear from the above discussion that, the reasons cited by the respondent for the delay in completion of the project, do not give any satisfactory explanation for keeping the project incomplete for 8-9 years. Moreover, the

Reserve

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 respondent is liable to compensate the buyers accordingly.

6. Even 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 complainant for delay in accordance with the provision of section 18 of the RERA Act, 2016.
7. Accordingly, the respondent is directed to pay interest to the complainant for the delayed possession at the prescribed rate under RERA Act, 2016 and the Rules made there under i.e. MCLR+2% on the amount paid by him, from 1st May, 2017 till the actual date of possession. The respondent shall pay the interest within a period of thirty days now, from the date on which such Interest becomes due and payable to the complainant, and shall also submit the compliance report before this Authority within a period of 30 days from the date of payment.
8. With the above directions, the complaint stands disposed of.



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