

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000044479

Bhuvneshwar Pathak ... Complainant

Versus

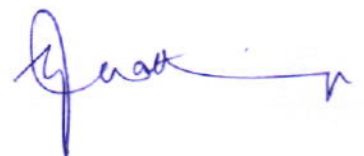
Sanvo Resorts Pvt. Ltd.
MahaRERA Regn. No. P52000000547 ... Respondent

Corum:
Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present.
Respondent was represented by Ms. Sonam Mhatre, Adv. a/w Mr. Renjith Nair, Adv. (i/b M/s. Dhaval Vussonji and Associates).

Order
July 31, 2018

1. The Complainant has purchased an apartment bearing No. 221-S1-A in the Respondent's project 'MARATHON NEXZONE ZODIAC -1' situated at Panvel, Raigad via a registered agreement for sale dated June 21, 2013 (*hereinafter referred to as the said agreement*). The Complainant has alleged that pursuant to the said agreement, the Respondent was to hand over possession of the said apartment on or before December 2015, but has failed to do so. Therefore, he prayed the Respondent be directed to hand over possession of the said apartment at the earliest, and pay him interest for the delay under Section 18 of the Real Estate (Regulation and Development) Act, 2016.
2. The Learned Counsel for the Respondent submitted that the Part Occupation Certificate for this Project was obtained on March 26, 2018 before the said complaint was filed, hence the provisions of Section 18 of the Act will not apply.



3. The Complainant submitted the Part Occupation Certificate(OC) is conditional and the Respondent is yet to comply with the said conditions. The Learned Counsel for the Respondent submitted that the said conditions attached to the part OC have been complied with by the Respondent.

4. 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.

5. 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. If the Complainant does not intend to withdraw from the said project, he is advised to take possession of his apartment, as the said apartment is now ready for occupation.

6. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA