

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

COMPLAINT No: CC006000000078723

Mr. Shashi Sharma Complainant
Versus
M/s. Sanvo Resort Pvt Ltd Respondent
MahaRERA Registration No. P52000000502

Coram: Dr. Vijay Satbir Singh, Hon'ble Member-1/MahaRERA
Adv. Godfrey Pimenta appeared for the complainant.
Adv. Prasanna Tare appeared for the respondent.

ORDER

(20th January, 2020)

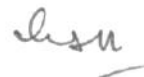
1. The complainant has filed this complaint seeking directions to the respondent to pay interest for the delayed possession under the provision of section-18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "RERA") on the actual amount paid by him to the respondent from the agreed date of possession mentioned in the agreement for sale in respect of booking of a flat No. 2405, on 24th floor, in Building No. S-1 in Wing-D in the respondent's project known as "**Marathon Nexzone Avior -1**", having MahaRERA registration No. P52000000502 at village Kolkhe, Taluka Panvel.
2. This complaint was heard on 10-06-2019 and on request of both the parties the same was referred to the Ld Adjudicating Officer, MahaRERA for adjudging the compensation. However, the Ld Adjudicating Officer, MahaRERA again referred this complaint to MahaRERA for final decision. Hence this complaint was heard by MahaRERA on 2-01-2020, when both the parties argued the matter at length and the same was closed for order with the direction to both the parties to settle the matter amicably. However,

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they could not reach any mutually agreeable terms and hence, the same is decided on merits.

3. It is the case of the complainant that he had booked the said flat in the respondent's project in the year 2014 for a total consideration amount of Rs. 58,52,600/-. The respondent has executed the registered agreement for sale with him on 27-02-2014. According to the said agreement, the respondent was liable to handover possession of the said flat to the complainant on or before 31-12-2016. Till date, he has paid substantial amount towards the cost of the said flat i.e. Rs. 55,02,267/-. The respondent has obtained occupancy certificate on 2-05-2019 for this project. Since the respondent has failed to handover possession of the said flat on the agreed date, he is entitled to seek interest for the delayed possession till the date of occupancy certificate is obtained by the respondent as per order passed by the Maharashtra Real Estate Appellate Tribunal.
4. The respondent disputed the claim of the complainant and stated that the present complaint is misconceived and not maintainable and the same is liable to be dismissed. The respondent further stated that there are various reasons beyond its control which have occurred and therefore, certain period needs to be excluded from calculating the date of handing over possession of the flat to the complainant. Further, the project got delayed mainly due to the delay on the part of concerned authorities viz., competent authority, CFO etc in granting requisite permissions. Though it applied for amended layout plan on 17-05-2014, it got it approved from the competent authority on 9-1-2018. The competent authority has taken more than 3 and half years to grant the said revised permissions, though as per the Government Directives dated 11-07-2017, issued by the Urban Development Department, whereby the definite timeline is given for grant of construction permissions by the competent authorities.

5. Further, the Chief Fire Officer has took 6 months time to grant NOC and though the project was complete and occupancy certificate was applied for by them. Therefore, it could not get the same in a time bound manner. Hence, the said delay was beyond its control. The respondent further stated that finally it obtained the occupancy certificate on 2-05-2019 and vide letter dated 4-05-2019, it called upon the complainant to take possession of the said flat by paying necessary dues. However, the complainant did not come forward to take possession of his flat. The respondent further stated that when the earlier orders have been passed by the MahaRERA in other complaints filed with respect to this project, no occupancy certificate was obtained for this project. However, since the project is complete they prayed for dismissal of this complaint.
6. The MahaRERA has examined the arguments advanced by both the parties as well as the record. The complainant has filed this complaint seeking interest for the delayed possession under section-18 of the RERA as the agreed date of possession mentioned in the agreement for sale executed between the complainant and the respondent is over. The respondent has alleged that the project got delayed mainly due to the delay in granting various permissions by the competent authority as well as other authorities. On perusal of the agreement for sale, it appears that as per clause No. 15.1 of the said agreement, the respondent has agreed to handover possession of the said flat to the complainant on or before 31-12-2016 with a grace period of 9 months i.e. 30-10-2017. However, possession has not been handed over to the complainant and after filing of this complaint on 2-05-2019, the respondent has obtained the occupancy certificate for this project. It shows that the respondent has violated the provision of section-18 of the RERA and therefore, the respondent is liable to pay interest for the delayed possession under section-18 of the RERA.



7. Even if the justification given by the respondent is considered for the delay, it can get 6 months relief in the date of possession mentioned in the registered agreement for sale. Therefore, in the present case, the respondent is liable to pay interest to the complainant from 1st May, 2018 till the date of occupancy certificate is obtained for the said project i.e. 2-05-2019.
8. In the present case, since the respondent has failed to hand over possession of the flat to the complainant, the respondent is liable to pay interest to the complainants from 1st May , 2018 till the date of occupancy certificate i.e. 2-05-2019 to the complainant on the actual payment made by the complainant @ MCLR of State Bank of India (SBI) plus 2%. The respondent would be at liberty to set off the amount of interest payable by them to the complainant with the outstanding dues payable by the complainant and the same shall be paid at the time of possession.
9. With these directions, the complaint stands disposed of.


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