### BEFORE THE

# MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

## MUMBAI

### COMPLAINT NO: CC00600000056651

Mukesh and Neha Surana ... Complainants

Versus

Neepa Real Estates Private LimitedMahaRERA Regn. No. P51800000980...Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants were represented by Mr. Tanuj Lodha, Adv. Respondent was represented by Mr. Vikramjit Garewal, Adv. a/w Ms. Gargi Shinde, Adv.

# Order

November 26, 2018

- 1. The Complainants have booked an apartment bearing no. 404 in the Respondent's project 'VASANT OASIS ZINNIA BLDG 17' situated at Andheri, Mumbai through a Letter of Allotment dated May 24, 2013. The Complainants alleged that even after having paid substantial amount towards the consideration price, the Respondent has failed to execute and register the agreement for sale. Further, they alleged the Respondent had promised to handover possession by 2016 but has failed to do so. Therefore, the Complainants prayed that the Respondent be directed to register and execute the agreement for sale and pay them interest for the delay in handing over possession. Further, they also prayed that the Respondent be directed to initiate the process of society formation if more than 50% of the apartments in the said project have been sold.
- 2. The Learned Counsel for the Respondent submitted that the Respondent has on multiple occasions asked the Complainants to execute and register the agreement for sale, however, the Complainants have failed to do so. Further, he submitted the Respondent is willing to execute and register the agreement for sale and handover

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possession of the said apartment before the period ending December 31, 2022 as set out in the Respondent's MahaRERA registration.

- 3. On review of the respondent's MahaRERA registration it is observed that the respondent has put December 31, 2022 as the revised proposed date of completion which is an unreasonable time period for completion of the project. As per the provisions of the Rule 4 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules,2017 the revised date of possession for an ongoing project has to be commensurate with the extent of balance development.
- 4. Further, Section 18 (1) of the Real Estate (Regulation and Development) Act 2016 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. "

Accordingly, since no agreement for sale has been executed and registered between the parties, provisions of section 18 of the said Act does not apply to the present case.

5. In view of the above facts, the parties are directed to execute and register the agreement for sale as per the provisions of section 13 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder within 30 days from the date of this Order. The Respondent shall handover possession of the said apartment, with Occupancy Certificate, to the Complainants before the period ending December 31, 2021, failing which the Respondent shall be liable to pay interest

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to the Complainants from January 1, 2022 till the actual date of possession, on the entire amount paid by the Complainants to the Respondent. The said interest shall be at the rate as prescribed under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017 and is to be paid/adjusted at the time of handing over possession.

- The Respondent shall initiate the process of society formation if more than 50% of the agreements for sale for the apartments in the said project have been executed and registered.
- 7. Consequently, the matter is hereby disposed of.

, am Chatterjee (Chairperson, MahaRERA)