

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO: CC00600000078201

Sanket and Nikhil Jarunde ... Complainants

Versus

Palava Dwellers Private Limited  
MahaRERA Regn. No. P51700000378 ... Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants were represented by Mr. Prem Kumar Pandey, Adv.  
Respondent was represented by Ms. Tarunima Singh, Adv.

**Order**

June 18, 2019

1. The Complainants have entered into a registered agreement for sale dated October 11, 2014 (*hereinafter referred to as the said agreement*) to purchase an apartment bearing no: 0906/A in the Respondent's project 'Palava Cielo A - F' situated at, Palava, Thane. The Complainants have alleged that the date of possession as stipulated by the said agreement is long over; however, the Respondent has failed to hand over the possession of the said apartment. Therefore, they prayed that the Respondent be directed to pay them interest for the delayed possession.
2. The learned counsel for the Respondent submitted that the occupation certificate for the said project has been received on January 4, 2019 prior to the present Complaint being filed by the Complainants and that the Respondent has already offered possession to the Complainants.
3. The Complainants in the additional affidavit dated April 2, 2019 has submitted that the Respondent had sent the possession demand letter in December, 2018 and that he has made the requisite payments, however, he is yet to receive possession of the apartment.



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 indicated 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 provision regarding interest on delay, as per section 18 of the Real Estate (Regulation and Development) Act, 2016, shall not apply.

6. The Complainants are advised to take possession of the said apartment at the earliest.

7. Consequently, the matter is hereby disposed of.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA