

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC00600000057243

Mahendra Hingar ... Complainant

Versus

Palava Dwellers Private Limited
MahaRERA Regn. No. P51700000389 ... Respondent

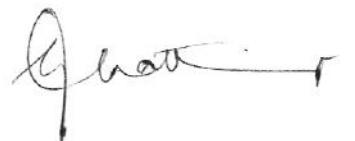
Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present a/w Ms. Poonam Madhwani, Adv.
Respondent was represented by Mr. Sunilraja Nadar, Adv., Ms. Tarunima Singh, Adv. and
Mr. Akshay Pare, Adv.

Order

December 04, 2019

1. The Complainant has purchased an apartment bearing no. Q1601 in the Respondent's project 'PALAVA ELITE K TO T' situated at Pallava, Kalyan via registered agreement for sale dated May 23, 2016 (*hereinafter referred to as the said agreement*). The Complainant has alleged that the Respondent was to hand over possession of the said apartment on or before December 2016, but has failed to do so. Therefore, they prayed that the Respondent be directed to hand over possession of the apartment at the earliest and pay them interest for the delay.
2. The Learned Counsel for the Respondent submitted that the Occupancy Certificate (OC) for the said Project was obtained on May, 2018 itself, before the said complaint for interest on delay under section 18 of the Act were filed with MahaRERA. Further, he submitted the Complainant has already taken possession of the said apartment.



3. Time was provided to both parties to file written submissions, if any. None have done so.

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 in the instant case.

6. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA