

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC00600000056405 and CC00600000056404

Suryakant Y. Jadhav
Suryakant Jadhav HUF ... Complainants

Versus

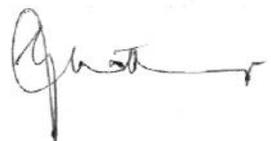
Palava Dwellers Private Limited
MahaRERA Regn. No. P51700000384 ... Respondent

Corum:
Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants were represented by Mr. Anwar Landge, Adv.
Respondent was represented by Ms. Akansha Ughade, Adv.

Order
March 06, 2019

1. The Complainants have purchased apartments bearing No. 901-H and 902-H in the Respondent's project 'PALAVA LAKESIDE A to H' situated at Palava, Kalyan via a registered agreement for sale (*hereinafter referred to as the said agreements*) dated May 17, 2014 and May 16, 2014. The Complainants have alleged that pursuant to the said agreements, the Respondent was to hand over possession of the said apartments on or before February 28, 2017, but has failed to do so. Therefore, they prayed the Respondent be directed to refund the amount paid, and pay them interest and compensation 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 May 10, 2018 before the said complaints were filed, hence the provisions of Section 18 of the Act will not apply.



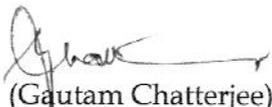
3. Section 18 (1)(a) of the said Act reads as:

“ 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.

4. 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. The Complainants are advised to take possession of their apartments, as the said apartment is now ready for occupation.
5. Alternatively, if the Complainants intend to withdraw from the said project then such withdrawal shall be guided by the terms and conditions of the said agreements.
6. Consequently, the matters are hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA