

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO. CC006000000100195

Amita Soni ... Complainant

Versus

Ekta Parksville Homes Pvt. Ltd.
MahaRERA Regn. No. P99000000115 ... Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was herself present a/w Mr. Godfrey Pimenta, Adv.
Respondent was represented by Mr. C. P. Goyal, Authorised representative.

Order

January 03, 2020

1. The Complainant has stated that she has purchased an apartment bearing no: 801-G in the Respondent's project 'EKTA PARKSVILLE PHASE II' situated at Virar, Thane via registered agreement for sale dated February 23, 2015 (*hereinafter referred to as the said agreement*). The Complainant has stated that the Respondent has failed to complete the construction of the said project for considerable period of time from the date of possession of the apartment as more particularly stated in the said agreement. Therefore, she prayed the Respondent be directed to refund the amount paid along with interest and compensation.
2. The Complainant submitted the occupancy certificate (OC) obtained by the Respondent is conditional. Further, she submitted that there are issues pertaining to electric supply and water supply in the said project.
3. The authorised representative for the Respondent, explained that the project completion was delayed due to certain mitigating circumstances. Moreover, he submitted that the Part OC for this Project was obtained on May 5, 2019 before the said complaint was filed with MahaRERA. He also submitted that the Respondent has already offered possession to the




Complainant. He also submitted there are issues pertaining to electric and water supply in the entire of the larger layout of the project land and that the Respondent has been providing electric and water supply.

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 Respondent is not liable to pay interest on delay to the Complainant, as per section 18 of the Real Estate (Regulation and Development) Act, 2016. The Complainant is advised to take possession of her apartment.
6. In case, the Complainant intends to withdraw from the said project, then such withdrawal shall be guided by the terms and conditions of the said agreement.
7. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA