

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

COMPLAINT NO: CC00600000044557

Ketan Kothari ... Complainant

Versus

Lucina Land Development Limited  
MahaRERA Regn. No. P52000002658 ... Respondent

Corum:

Shri. Gautam Chatterjee, Chairperson, MahaRERA

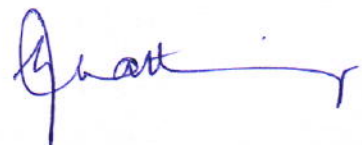
Complainant was represented by Mr. Sanjay Chaturvedi, Adv. a/w Ms. Pooja Gaikwad, Adv.

Respondent was represented by Mr. Nilesh Gala, Adv.

**Order**

September 25, 2018

1. The Complainant has purchased an apartment in the Respondent's project 'Indiabulls Greens - 4' situated at Panvel, Raigad via registered agreement for sale (*hereinafter referred to as the said agreement*) dated August 31, 2012. The Complainant stated that pursuant to the said agreement the Respondent was to handover possession of the apartment by August, 2017. Therefore, he prayed that the Respondent be directed to pay them interest, on delay, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*) and handover possession of the said apartment at the earliest.
2. The learned Counsel for the Respondent submitted that the Occupation Certificate for this Project was obtained in September 2017 before the said complaint was filed and that the Respondent has already offered possession, 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 Complainant is advised to take possession of the apartment.
5. Consequently, the matter is hereby disposed of.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA