

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000056676

Rajesh B Dhume ... Complainant

Versus

Lucina Land Development Limited
MahaRERA Regn. No. P52000001592 ... Respondent

Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present.
Respondent was represented by Mr. Nilesh Gala, Adv.

Order
November 26, 2018

1. The Complainant has purchased an apartment bearing no: 11F-3304 in the Respondent's project 'Indiabulls Greens - 1' situated at, Panvel, Raigad via a registered agreement for sale (*hereinafter referred to as the said agreement*) dated April 20, 2013. The Complainant has alleged that the date of possession as stipulated by the said agreement was to be on or before a period of 42months from the date of the said agreement with a grace period of further 9 months; however, the Respondent has failed to hand over the possession of the said apartment till date. Therefore, he prayed that the Respondent be directed to pay him interest for the delay in handing over possession.
2. The learned counsel for the Respondent submitted that MahaRERA in previous complaints filed against the said project has already directed the Respondent to handover possession of the apartments before December 31, 2018, after considering the mitigating circumstances in the project. Further, he submitted that the Respondent has already obtained the Occupancy Certificate for the said project before the filing of the present complaint and has offered possession of the apartment to the Complainant.



Therefore, he argued that the provisions of Section 18(1) of the Real Estate (Regulation and Development) Act, 2016 will not be applicable.

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 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.

4. In view of the above, the provision regarding interest on delay to the Complainant, as per section 18 of the Real Estate (Regulation and Development) Act, 2016, shall not apply.
5. The Complainant is advised to take possession of the said apartment at the earliest, within three weeks and make payment of the balance amount (principal amount only without any interest).
6. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA