

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
MUMBAI**

Complaint No. CC006000000100407

Larissa Fernandes & Rohan Fernandes

.... Complainants

Versus

M/s. Lodha Impression Real Estate Pvt. Ltd.

.... Respondent

Project Registration No. **P51800000293**

Coram: Dr. Vijay Satbir Singh, Hon'ble Member – I/MahaRERA

Adv. Anil Dsouza appeared for the complainant.

Adv. Mahindra Singh appeared for the respondent.

ORDER

(18th February, 2020)

1. The complainants have filed this complaint seeking directions from MahaRERA to the respondent for delayed possession under section-18 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "RERA") with respect to the booking of a flat No. 301 adm. 1263 sq.ft. carpet area, in the respondent's project known as "**Lodha Eternis Idyllia**" bearing MahaRERA Registration No. **P51800000293** at Andheri (East), Mumbai.
2. This complaint was heard finally today, when the parties appeared and made their respective submissions. It is the case of the complainants that they have booked the said flat in the month of March 2016 for a total consideration amount of Rs.3,43,66,464/-. The registered agreement for sale was executed on 1st March, 2016. They have paid the entire consideration amount to the respondent. According to the agreement for sale, the respondent had agreed to hand over the fit out possession of the said flat on or before 30th April, 2017 with grace period of one year i.e. 31st April, 2018. Further, the respondent while registering the said project with MahaRERA has mentioned the proposed completion date of the said project as 31st March, 2018. However, no possession was given to them on the agreed date of possession and there is 8 to 10 month's



delay in handing over possession of the said flat to the complainants. The respondent had given possession of the flat to the complainants in the month of February, 2019. The complainants are, therefore, seeking interest for the delayed possession from May 2018 till February 2019.

3. The respondent, on the other hand, has disputed the claim of the complainants and stated that as per the registered agreement for sale, the date of fit out possession was April 2018 and it has obtained the occupancy certificate for the said project in the month of December 2018 and the possession was given to the complainants in the month of February 2019. Further, the fit out possession was offered to the complainants in the month of April 2018. Due to the said delay it has also paid seven months compensation to the complainants amounting to Rs.7,09,750/- which has been accepted by the complainants from the month of January 2018 till December, 2018. The respondents therefore prayed for dismissal of this complaint.
4. The MahaRERA has examined the arguments advanced by both the parties as well as the record. The complainants in the present case have approached MahaRERA seeking interest for the delayed possession under section-18 of the RERA. Admittedly, the occupancy certificate for the project is received in the month of December 2018 and the same has been uploaded on MahaRERA website along with form 4. Further, the complainants have also taken possession in the month of February, 2019 and after six months from the date of possession, the present complaint has been filed seeking interest of delayed possession.
5. In this regard, the MahaRERA is of the view that section-18 would apply if the promoter fails to complete the project and hand over the possession of the flat as per the agreed date of possession mentioned in the registered agreement for sale. In the present case, admittedly, the occupancy certificate has been obtained and possession has already been taken by the complainants as per the

use

agreement. Hence, the provisions of section-18 are not applicable. Moreover, the complainants themselves have admitted that they have received compensation from the respondent as informed by the respondent and therefore, the MahaRERA is of the view that the complainants cannot use MahaRERA to get dual benefits.

6. In view of the aforesaid facts, the MahaRERA does not find any merit in this complaint and hence the complaint stands dismissed.



(Dr. Vijay Satbir Singh)
Member – 1/MahaRERA

महा-रेरा