

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

Complaint No. CC006000000110678

Mrs Ila Naresh Shah & Anr . ..Complainants
Versus
M/s. Silvex Constructions Pvt. Ltd. ..Respondent

MahaRERA Project Registration No. P51800003009

Coram: Dr. Vijay Satbir Singh, Hon'ble Member - 1/MahaRERA

Adv. Rajeshwar Deshmukh appeared for the complainants.
Adv. Sanjeel Kadam appeared for the respondent.

ORDER

(08thSeptember, 2020)
(Through Video Conferencing)

1. The complainants have filed this complaint seeking directions from MahaRERA to the respondent to pay interest for the delayed possession under section 18 of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the RERA') with respect to booking of flat bearing No.1103, having area admeasuring 927 sq.ft carpet, in Wing- A of the respondent's project known as "Silver Park" at Ghatkopar, Mumbai.
2. This complaint filed by the complainants was heard on 1-11-2019 and 6-12-2019 in the presence of the concerned parties, when directions were given to the complainants to serve a copy of complaint to the respondent and further the respondent was directed to file reply within a period of 2 weeks.
3. Thereafter this complaint was heard on 18-08-2020 as per the Standard Operating Procedure dated 12th June 2020 issued by MahaRERA for



hearing of complaints through Video Conferencing. Both the parties were issued prior intimation of the hearing and they were also been informed to submit their written submissions, if any. Accordingly, the parties appeared for the said hearing. During the course of hearing, the respondent sought time to file reply on record. Hence on request of the respondent the matter was adjourned today and further time was granted to the respondent to file its reply as per the SOP dated 12-06-2020.

4. During the course of hearing today, the parties appeared through their respective advocates. The respondent stated that it will file the reply and sought further time to argue this case. The said request made by the respondent was rejected by MahaRERA on the ground that the present complaint was filed on 24-08-2019 and sufficient time has been granted to the parties for make their oral as well as written submissions. Therefore the MahaRERA cannot keep on adjourning this case again and again. Hence the MahaRERA heard the arguments advanced by the complainants and perused the records and submissions made by the parties.

5. It is the case of the complainants they booked the said flat in the respondent's project for total consideration amount of Rs. 93,10,000/-. The registered agreement for sale was executed between the parties on 19-06-2017, wherein the respondent has agreed to handover possession of the said flat on or before 31-12-2017. Though the complainants have paid substantial amount of Rs. 91,44,000/- to the respondent, it has failed and neglected to handover possession of the said flat to them. Hence the present complaint has been filed under section 18 of the RERA seeking interest for the delayed possession.

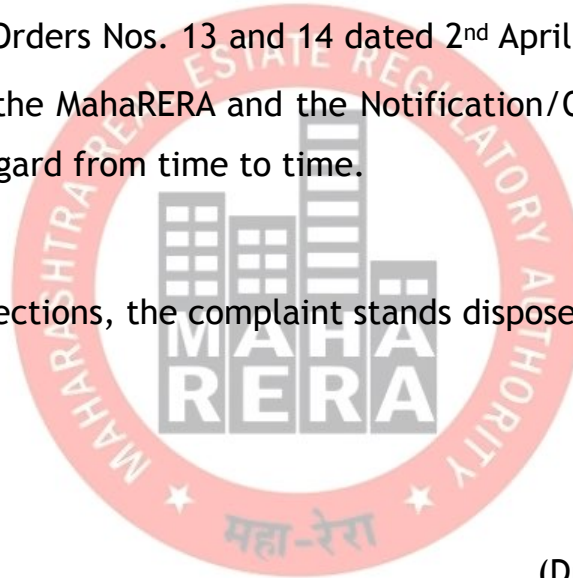


6. The respondent though appeared for the hearings scheduled before MahaRERA from time to time , has failed to file reply on record as per the SOP dated 12-06-2020. Hence the MahaRERA has no other alternative but to proceed with the matter ex-parte against the respondent on merits.
7. The MahaRERA has examined the arguments advanced by the complainants as well as the record. In this case, admittedly the complainants are the allottees in the respondent's project and there is a registered agreement for sale between the parties, wherein the respondent has agreed to handover possession of the said flat on or before 31-12-2017. Till date possession has not been handover to the complainants.
8. From the record, it is also observed by MahaRERA that in this project the MahaRERA has already passed a reasoned order on 26-12-2019 in complaint No. CC00600000078691 filed by the other allottee of this project, wherein the respondent duly submitted its detailed reply. Considering the facts and circumstances of the case including the reasons of delay cited by the respondent, the MahaRERA has granted 6 months extension in the date of possession given by the respondent to the said allottee and directed the respondent to pay interest for the delayed possession to the said allottee from 1st July, 2018 till the actual date of possession. The complainants being part of this project are also entitled to seek similar reliefs at par with reliefs granted to the other allottee.
9. In view of above facts and discussion, the respondent is directed to pay

interest to the complainants from 1st July 2018 for every month till the actual date of possession on the actual amount paid by the complainant at the rate of Marginal Cost Lending Rate (MCLR) of SBI plus 2% as prescribed under the provisions of section 18 of The Real Estate (Regulation and Development) Act, 2016 and the Rules made there under.

10. With regard to the payment of interest to the complainants, the MahaRERA further directs that the respondent promoter is entitled to claim the benefit of "moratorium period" as mentioned in the Notifications / Orders Nos. 13 and 14 dated 2nd April, 2020 and 18th May, 2020 issued by the MahaRERA and the Notification/Order which may be issued in this regard from time to time.

11. With these directions, the complaint stands disposed of.



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