

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

COMPLAINT No: CC006000000012332

Mr. Sher Singh Balbir Singh Chilotra Complainant

Versus

M/s. Ravi Developments

MahaRERA Registration No. P51700011796

..... Respondent

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

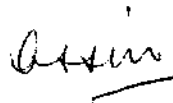
The complainant appeared in person.

Adv. Krishna A. Agarwal appeared for the respondent.

ORDER

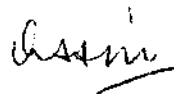
(7th May, 2018)

1. The complainant is an allottee in the MahaRERA registered project bearing No. P51700011796 known as "Gaurav Aster" at Mira Road (East), Dist. Thane. He has filed this complaint under section 18 of the Maharashtra Real Estate (Regulation and Development) Act, 2016 seeking directions from this Authority to the respondents, to handover possession of his flat No. 1303 with occupancy certificate and also to pay compensation at the rate of 15% on the amount paid by him in respect of booking of his flat in the said project of the respondent.
2. This matter was heard on merits. The complainant has argued before this Authority that he had purchased the flat No. 1303 in the respondent's aforesaid project by executing registered agreement for sale dated 2nd July 2011 with the respondent. On 2nd July 2013, the respondent offered him possession of the said flat No. 1303 in Building known as "Aster Wing -C in the project known as "Gaurav Valley" at Mira Road (East). The said building



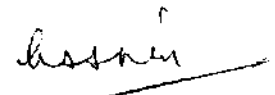
has 3 wings consisting of stilt plus 16 upper floors. However, the respondent had got permission upto 10th floor only in the year 2011. Therefore, the concerned planning authority viz., Mira Bhayandar Municipal Corporation demolished six upper floors of the said building including the complainant's flat in the year 2013. Since then the building stands under construction till date. Therefore, the complainant could not get the actual possession of the flat till date. The complainant, therefore, prayed for early possession of the flat and compensation for the delay.

3. During the hearings conducted on given dates, both the parties tried to settle the matter amicably. However, same could not happen so far.
4. From the copy of agreement for sale, which is the crucial document, prima facie, it appears that the same was registered on 2-07-2011. It is seen that in clause No. 11 of the said agreement, the date of possession is kept blank. However, from the possession letter dated 2-07-2013 issued by the respondent, it appears that the flat was ready on that date. But, the possession could not be given due the reasons sited above. Now in MahaRERA registration, the respondent has given the date of possession as 31-12-2018.
5. The complainant who is an allottee in the respondent's project can't be forced to go haywire at the whims and convenience of the respondent promoter for no fault committed by him towards his contractual obligations. It is not the fact that the complainant has articulately avoided his payment schedule and has created a dent in the project of the respondent as it is evident from the fact that the respondent had offered him possession in the year 2013 itself. Thus, this Authority feels that due to an illegal act of the respondent, promoter the complainant should not



suffer from mental agony and financial loss. Therefore, the complainant is entitled to seek relief.

6. According to Sec 18(1) of the Act, if the promoter fails to complete a project or unable to give possession of an apartment, plot or building, the allottee shall be paid interest for the period of delay till handing over of the possession at such rate as may be prescribed. The Act has provided interest for delay to the home buyer if he wants to continue in the project. This relief was not available under the MOFA.
7. It is very clear from the above discussion that, he has failed to handover possession of the flat to the complainant since 2013. The payment of interest on the money invested by the home buyer is not the penalty, but a type of compensation for delay as has been clarified by the Hon'ble High Court of Judicature at Bombay, dated 6th December 2017. The respondent is liable to pay interest for the remaining period of delay.
8. Accordingly, the respondent is directed to pay interest to the complainant for the delayed possession at the prescribed rate under RERA Act, 2016 and the Rules made there under i.e. MCLR+2% on the amount paid by him, from 1st May, 2017 till the actual date of possession.
9. With these directions, the complaint stands disposed of.



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