

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,  
MUMBAI

1. Complaint No. CC006000000141131  
Samira Azher Beg ..Complainants  
Versus  
M/s. Jangid Properties ..Respondents

Along with  
2. Complaint No. CC006000000161254  
FarhatAfshanNiyaz Ahmed ..Complainants  
Versus  
M/s. Jangid Properties ..Respondents

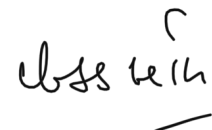
Along with  
3. Complaint No. CC006000000171502  
IshaqueQasimali Shaikh ..Complainants  
Versus  
M/s. Jangid Properties ..Respondents

Along with  
4. Complaint No. CC006000000171943  
Usufe Abdul Latif Shaika ..Complainants  
Versus  
M/s. Jangid Properties ..Respondents

Along with  
5. Complaint No. CC006000000182043  
MohdShakeel Haji Siddique Nagori ..Complainants  
Versus  
M/s. Jangid Properties ..Respondents

Along with  
6. Complaint No. CC006000000192117  
Sharafat Hussain Quresh  
Tasibun Nisha S Hussain Queresh ..Complainants  
Versus  
M/s. Jangid Properties ..Respondents

Along with  
7. Complaint No. CC006000000192129  
Mohd Ali Haji KasamChhawaniwala ..Complainants  
Versus  
M/s. Jangid Properties ..Respondents



8. Along with  
Complaint No. CC006000000192363

FiroziKilledar  
Mohammed Ammar Killedar ..Complainants

Versus  
M/s. Jangid Properties ..Respondents

9. Along with  
Complaint No. CC006000000192364

Khateeb Ahmed Khan ..Complainants

Versus  
M/s. Jangid Properties ..Respondents

MahaRERA Project Registration No. P51700007248

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

Adv. Anil D'Souza Shah appeared for all the complainants.

Adv.Sonappa Nandrakar appeared for the respondent.

**ORDER**  
( 28<sup>th</sup>September, 2020)  
(Through Video Conferencing)

1. The above named complainants have filed these 9 separate complaints seeking direction from the MahaRERA to the respondent to pay the interest for the delayed possession, under section 18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA'), in respect of booking of their respective flats in the respondents project known as "Ambrosia and Aster" bearing MahaRERA registration No. P51700007248 at Mira- Bhayandar, Dist. Thane.
2. These complaints were clubbed together and heard on several occasions and the same were heard finally on 17-09-2020 as per the Standard Operating Procedure dated 12-06-2020 issued by MahaRERA for hearing of complaints through video conferencing. All the parties have been issued prior intimation for these hearings and have also been informed to submit their written submissions, if any. Accordingly, the parties have uploaded their respective written submissions on record of MahaRERA.

During the course of hearing, the respondent made statement before the MahaRERA that it is ready and willing to pay interest for the delayed possession to the complainants from the agreed date of possession mentioned in the agreements for sale. Hence after hearing the arguments of both the parties, time was granted to the respondents to submit the its additional submissions on record of MahaRERA. Accordingly, the respondent has submitted its additional written submissions on record of MahaRERA on 26-09-2020. The MahaRERA has heard the arguments advanced by both the parties and also perused the written submissions filed on record.

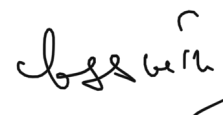
3. It is the case of the complainants that they have purchased their respective flats in the respondent's project by executing the registered agreements for sale with the respondent on different dates between the years 2012, 2013, 2016 and 2017. As per the possession clause No. 17 of the said agreements for sale executed with the complainants, the respondent was liable to handover the possession of the said flats to the complainants on or before different dates mentioned in the said agreements for sale such as for complainants at Sr. Nos.1 , 2 and 6 above, on or before December, 2013, for complainants at Sr. No. 5 and 7, on or before March, 2014, complainants at Sr. No. 4, on or before October, 2016 , complainants at Sr. No. 9, on or before March, 2013 and for complainants at Sr. Nos. 3 and 8 , whose agreements were executed on 28-06-2013 and 20-06-2017, no date of possession was mentioned in the agreements. However, till date the respondent has failed and neglected to handover the possession of the flats to the complainants on time, though they have paid substantial amount to the respondent towards the cost of the said flat as per the said agreements. The complainants further stated that though the building got completed on site, the respondent did not apply for occupancy certificate and hand over possession of their flats for the best reasons known to it. The complainants therefore filed these complaints seeking reliefs under

section 18 of the RERA for interest for the delayed possession from the agreed date of possession mentioned in the agreement for sale till the actual date of possession with occupancy certificate.

4. The respondent on the other hand resisted the claims of the complainants and stated that there is no intentional delay in implementation of the said project on its part, however, the project got delayed mainly due to unforeseen circumstances and due to the slowdown in market condition and financial difficulties. It has further stated that the project has completed around 88% to 90% construction on site. However, due to Covid-19 pandemic the entire labour force, supporting staff were not able to join the work on site. However, by March, 2021, it will complete the project and will handover possession of the flats to the complainants. It has further stated that the complainants are not entitled to claim any compensation.
5. Further during the course of hearing, the respondent made statement before the MahaRERA that it was ready and willing to pay interest for the delayed possession to the complainants on the agreed date of possession mentioned in their respective agreements for sale, wherein the dates of possession has been specifically mentioned. Accordingly, it has submitted additional written submission on record of MahaRERA on 26-09-2020, wherein it has stated that it would pay the interest to the complainants as per the date of possession mentioned in the agreements for sale considering the 12 months grace period from the date of possession mentioned in the agreements for sale. However, it would settle the claim of interest payable to the complainants at the time of possession by setting off the interest amount along with the amount payable by the complainants if any. With regard to the two complainants at Sr. No. 3 and 8 viz Mr. Ishaque Shaikh and Mr. Killedar, it has stated that no dates of

possession have been mentioned in their agreements as those complainants have agreed for the dates of possession as 29-04-2020 and 29-10-2020 respectively. The respondent therefore prayed for dismissal of these complaints.

6. The MahaRERA has examined the arguments advanced by both the parties as well as the records. In the present case admittedly, the complainants are the allottees of the respondent's project and there are registered agreements for sale executed between the complainants / allottees on different dates. Admittedly, no date of possession has been mentioned with respect to two complainants at Sr Nos. 3 and 8. According to clause No. 17 of the said agreements except for these two complainants at Sr. Nos. 3 and 8, the respondent was liable to give possession of the flats to the complainants on or before the expiry of 12 months' grace period from the date of possession mentioned in each agreements as mentioned in aforesaid para 3 herein-above. The said dates have been admitted by the respondent and apparently, there is no dispute about the payments made by the complainants as per the payment scheduled mentioned in the agreements. Till date, the project is incomplete and no occupancy certificate has been obtained and admittedly possession of the flats have not been handed over to the complainants. It shows that the respondent has violated the provisions of section 18 of the RERA Act, 2016 and the rules made there under.
7. The respondent has showed its readiness and willingness to pay the interest to the complainants from the agreed dates of possession mentioned in the agreements for sale except complainants at Sr. Nos. 3 and 8. The MahaRERA therefore feels that since the respondent is ready and willing to pay the interest to the complainants, it suffices the purpose of the complainants, in whose agreements for sale the dates of possession have been mentioned.

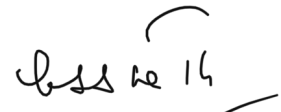




8. With regard to the claim of interest raised by the complainants at Sr. Nos. 3 and 8, the MahaRERA has observed that no date of possession has been mentioned in their agreements for sale. Admittedly, the agreements have been signed and executed in the year 2013 and 2017. If no date of possession was mentioned by the respondent, the complainants should have taken appropriate corrective action against the respondent under the prevailing provisions of MOFA. Therefore now they cannot seek any interest at par with the other complainants. The respondent has alleged that in those two cases, the complainants have agreed for possession dates as 29-04-2020 and 29-10-2020. The said contention of the respondent cannot be accepted by MahaRERA, since nothing has been produced on record duly signed by both the parties to show that the said dates were agreed by and between both the parties as the date of possession. The MahaRERA therefore feels that in absence of any agreed dates of possession in the agreements, the MahaRERA can consider the proposed date of completion of this project mentioned by the respondent while registering this project with MahaRERA i.e. 30-04-2019, which has already lapsed. Hence the MahaRERA is of the view that the respondent is liable to pay interest to the complainants at sr. Nos. 3 and 8 from 1<sup>st</sup> May, 2019 till the actual date of possession since no justified reasons for alleged delay has been proved by the respondent.

9. In view of above facts and discussion, the respondent is directed to pay interest to the complainants at Sr. Nos.1,2,4,5,6,7 and 9 from the agreed date of possession mentioned in their respective agreements for sale including the grace period of 12 months for every month of delay till the actual date of possession on the actual amount paid by the complainants at the rate of Marginal Cost Lending Rate (MCLR) 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. The respondent is further directed to pay interest to the complainants at Sr. Nos. 2 and 8 from 1<sup>st</sup> May, 2019 for every month of delay till the actual date of possession on the actual amount paid by the complainants at the rate of Marginal Cost Lending Rate (MCLR) 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.
11. 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 2<sup>nd</sup> April, 2020 and 18<sup>th</sup> May, 2020 issued by the MahaRERA and the Notification/Order which may be issued in this regard from time to time.
12. With regard to the claim of compensation sought by the complainants, the MahaRERA is of the view that since the complainants want to be in the project they are entitled to seek interest for the delayed possession as per the provision of section 18(1) of the RERA. Hence their claim for any other compensation stands rejected.
13. With these directions, all these nine complaints stand disposed of.



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