

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

**Complaint No. CC005000000023305**

Chandu Lachhmandas Ramnani .... Complainant  
**Versus**

Mbm Developers (Khemchand Bhojwani  
And Kanayalal Hotchand Matani) .... Respondent

Project Registration No. **P52100004321**

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

Ld. Adv. Nilesh Borate appeared for the complainant.

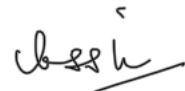
None appeared for the respondent.

**ORDE**

(22<sup>nd</sup> April, 2021)

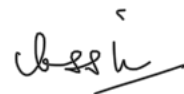
(Through Video Conferencing)

1. The complainant has filed this complaint seeking directions from MahaRERA to the respondent to pay interest for delay in handing over the possession under the provisions of section 18 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of the booking of flat bearing nos. 701 and 702 on 7<sup>th</sup> floor in Wing C admeasuring carpet area about 58.34sq.mtrs and 54.29 sq. mtrs. respectively along with covered parking space in the respondent's registered project known as "**Hi Face**" bearing MahaRERA registration No. P52100004321 situated at Pimple Saudagar, Dist. Pune. The complainant further sought revocation of the MahaRERA registration issued in favour of the respondent under section 7 of the RERA.



2. This complaint was transferred to this Bench on 16-04-2021 by the Hon'ble Member-2 MahaRERA. Accordingly, this matter was scheduled for hearing today as per the Standard Operating Procedure dated 12-06-2020 issued by MahaRERA for hearing of complaints through Video Conferencing. Both the parties have been issued prior intimation of this hearing and they were also informed to file their written submissions, if any. Accordingly, the complainant appeared for the hearing and made his submissions. However, the respondent through has been issued prior intimation of the said hearing, it has neither appeared nor filed any reply on record of MahaRERA in compliance with the SOP dated 12-06-2020 issued by the MahaRERA. Hence the MahaRERA heard the arguments advanced by the complainant and also perused the available record.

3. It is the case of the complainant that he has booked the said flats in the respondent's project by executing the registered agreements for sale dated 10-10-2013. The said flats were booked for total consideration amount of Rs.32,50,000/- each and till date he has paid entire consideration amount to the respondent for both the flats. According to clause no. 14 of the said agreement for sale, the respondent has agreed to handover possession of the said flat to him on or before 31-12-2014. However, till date the possession has not been handed over to him. As a result, he has been put to financial burden suffering huge loss and damages. He further stated that the respondent has also not formed the society of the allottees. Hence the



complainant has filed this complaint seeking possession of the flat along with interest for delay under section 18 of the RERA. With respect to the reliefs sought by the complainant under sections 7 and 8 of the RERA, during the course of hearing he has clarified that since the respondent has already obtained extension for project validity period, now he is not pressing for the said reliefs sought under sections 7 and 8 of the RERA.

4. In the present case, the MahaRERA has observed that the complainant has filed this online complaint before MahaRERA on 02-08-2019. However, till date, the respondent has not bothered to file its reply to this complaint, though the complaint is visible to the respondent in its project web page. Even after issuance of the SOP dated 12-06-2020, the respondent was liable to upload its reply in digital form in this complaint. However, till date, the respondent has not complied with the said direction. Furthermore, though the notice for this virtual hearing has been duly served upon it, the respondent failed to appear for the hearing which shows that the respondent is not willing to contest this complaint. Hence, the MahaRERA has no other alternative but to proceed with the matter ex-parte against the respondent on merits.

5. The MahaRERA has examined the arguments advanced by the complainant. The complainant being an allottee of this project filed this complaint seeking possession of his two flats along with interest for the delayed possession under section 18 of the RERA. There is a registered agreement for sale dated 10-10-2013

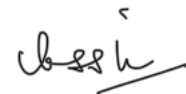
entered into between the complainant and the respondent wherein the respondent agreed to handover possession of the said flats on or before 31-12-2014, though the complainant has paid entire consideration amount to the respondent. To support his contention, the complainant has uploaded a copy of agreement for sale and payment receipts duly issued by the respondent acknowledging the said payment. However, the possession has not been handed over to him. It shows that the respondent has violated the provision of section 18 of the RERA.

6. The MahaRERA further observed that in this project the Hon'ble Member 2 MahaRERA has passed an order on 3-09-2019 in Complaint No. CC00500000023040 filed by other allottee Mr. Puneet Goswami against the respondent. In the said complaint, the said allottee was seeking identical reliefs. However, by passing the said order on 3-09-2019, the Hon'ble Member-2 MahaRERA has granted relief under section 18 of the RERA towards interest from 1-1-2015 till the actual date of possession taking into consideration delay caused by the respondent promoter in completing this project. The complainant being an allottee in the project is also entitled to seek identical reliefs at par with the other allottees.

7. In view of above facts and discussion, the respondent is directed to handover possession of the flat to the complainant by obtaining occupancy certificate. The respondent is further directed to pay interest to the complainant for the delayed possession from 01-0-1-2015 for every month till the actual date of possession

on the actual amount paid by the complainant at the rate of highest 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.

8. With regard to the issue raised by the complainant for non formation of society by the respondent, the MahaRERA is of the view that as per the provision of section 11(4) (e) of the RERA , the promoter of the MahaRERA registered project is under statutory obligation to enable formation of a society of the allottee if more than 51% flats have been sold. For compliance of such mandatory provision under RERA, no specific direction is required to be given. The respondent is under obligation to comply with the said legal provision.
9. With these directions, the complaint stands disposed of.
10. The certified copy of this order will be digitally signed by the concerned legal assistant of the MahaRERA. It is permitted to forward the same to both the parties by e-mail.



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