

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

1.Complaint No. CC004000000030406

Suresh Sadashio Parate Complainant/s

Versus

Sahara City Homes Respondent/s

Along with

2. Complaint No. CC004000000030421

Kuldeep Kumar Sachdeva Complainant/s

Versus

Sahara City Homes Nagpur Respondent/s

Along with

3. Complaint No. CC004000000030422

Ravinder Ramlal Narang Complainant/s

Versus

Sahara City Homes Ltd Respondent/s

Along with

4. Complaint No. CC004000000030426

Hemant Domaji Jawade Complainant/s

Versus

Sahara City Homes Respondent/s

Along with

5. Complaint No. CC004000000030433

Rajesh Gopichand Lanjewar Complainant/s

Versus

Sahara City Homes Respondent/s

Along with

6. Complaint No. CC00400000030434

Indrajeet Satyajeet Banerjee

.... Complainant/s

Versus

Sahara City Homes

.... Respondent/s

Along with

7. Complaint No. CC00400000030470

Rochish Madhukarrao Thaokar

.... Complainant/s

Versus

Sahara City Homes

.... Respondent/s

Along with

8. Complaint No. CC00400000030503

Purushottam Tammala

.... Complainant/s

Versus

Sahara City Homes

.... Respondent/s

Along with

9. Complaint No. CC00400000050548

Satyanrayan Champalal Taori

Santosh Champalal Taori

.... Complainant/s

Versus

Sahara Prime City Limited

.... Respondent/s

MahaRERA Project Registration No. P50500013486

Coram: Shri. Mahesh Pathak, Hon'ble Member - I/MahaRERA

Jaiprakash Heda (Authorised Representative) appeared for the complainants at Sr. Nos.1 and 3 to 9)

Ld Adv Nitesh Kumar appeared for the complainants at Sr. No. 2.

None appeared for the respondent.

ORDER

(Monday, 14th October 2024)

(Through Video Conferencing)

1. The complainants above named have filed these 9 separate online complaints before the MahaRERA on 03/08/2022 (Sr. No. 1), on 09/09/2022 (Sr. No. 2) , on 15/09/2022 (Sr. No. 3), on 19/10/2022 (Sr. No. 4), on 28/11/2022 (Sr. No. 5), on 28/11/2022 (Sr. No. 6) , on 18/02/2023 (Sr. No. 7), on 30/04/2023 (Sr. No. 8) and on 21/09/2023 (Sr. No. 9) mainly seeking directions from MahaRERA to the respondents as mentioned in table below at para no. 5 as prescribed 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 their respective flats / units (as mentioned in the table below at para-no. 5) in the respondents' registered project known as "**Sahara Prime City Ltd,**" bearing MahaRERA registration No. **P50500013486** located at **Gawasi Manapur, Nagpur (hereinafter referred to as the said project).**
2. These complaints were heard by the MahaRERA on several occasions and the same were finally heard on 24-07-2024 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. On the said dates of hearing, the complainants have appeared as per their appearances recorded in the Roznamas and made their respective submissions. Despite notice, the respondent remained absent. The MahaRERA heard the submissions of the complainants as per their appearances and also perused the available record.
3. After hearing the submissions of the complainants, the following Roznama was recorded -

On 24-07-2024:

"The complainants are present. The respondent is absent. In fact the respondent has never appeared before the MahaRERA and has also not filed any reply to these complaints despite directions in the previous hearing. Except the complainant at Sr. No. 3 (CC00400000030421), the remaining complainants have prayed for refund along with interest and compensation for delay. The complainants at Sr. Nos. 3 to 9 admittedly have only allotment letters issued by the respondent in the MOFA regime (Sr. No. 3 (CC00400000030421), 4 (CC00400000030422), 5 (CC00400000030426), 6 (CC00400000030433), 7 (CC00400000030434), 8 (CC00400000030470) and 9 (CC00400000030503). The complainant at Sr. No. 10 (CC00400000050548) is directed to upload the legible copy of the agreement for sale. The respondent is given one last chance to file its replies to these complaints along with written arguments within a period of one week i.e. by 31-07-2024. Further 1 weeks' time i.e. till 07-08-2024 is granted to the complainants to file rejoinder along with written arguments, even if the respondent does not file any reply. In case the respondent does not file any reply, the MahaRERA will be constrained to decide these matters ex-parte against the respondent on merits. The arguments of the complainants have already been recorded in the previous hearings. The complainant at Sr. No. 3 has also prayed for execution of the agreement for sale as per the allotment letter of 2007. Accordingly, these matters are reserved for orders suitably after 07-08-2024 based on the arguments of the complainant as well as reply, rejoinder, written arguments filed in these complaints including the documents uploaded in the complaints."

4. Despite specific directions being given by the MahaRERA, the respondent has not uploaded or filed its reply on the record of the MahaRERA in these complaints.
5. The complainants by filing these online complaints have prayed for the said reliefs as mentioned below. The information provided by them in their respective

Complaint nos. CC00400000030406 & 8 Other Complaints

online complaints are as follows -

Complaint No. Name of the Complainant	Flat Details/ Total Consideration / Consideration Paid	Agreement for sale or allotment letter /Date of possession	Reliefs
1. CC00400000030406 Suresh Sadashio Parate	Unit no. B8/703 on 7 th floor Rs.1766283/- Rs.	Allotment letter dated 13-09- 2008 (Uploaded) AFS- 03-06-2010 (uploaded) 38 months from the date of allotment (as per allotment letter dated 13-09-2008) 22 months (as per allotment letter dated 20-05-2015)	Sr. nos. 1, 3 to 9- Refund along with interest and compensation for delay
2. CC00400000030421 Kuldeep Kumar Sachdeva	Flat details- Unit No. B2/403, 4 th floor TC-Rs. 23,87,000/- Paid- Rs. 23,87,000 /-	29-10-2007 (allotment letter uploaded) 38 months from the date of allotment (as mentioned in the allotment letter)	Sr. no. 2- possession, compensation, interest.
3. CC00400000030422 Ravinder Ramlal Narang	Flat details- C8-704 on 7 th floor TC- Rs.3731000/- Paid- Rs. 3619070/- <u>NOTE</u> -(Payment plan 38 months)	Allotment letter dated 18-10- 2008 (uploaded) 38 months from the date of allotment (as mentioned in the allotment letter)	Additionally prayed in amendment application- For execution of the agreement for sale as per the allotment letter of 2007.
4. CC00400000030426 Hemant Domaji Jawade	Flat details- Unit no. C9-501 TC- Rs.461400/- Paid- Rs. 4683103/- <u>NOTE</u> -(Payment plan 38 months)	Allotment letter dated 06-04- 2009 38 months from the date of allotment (as mentioned in the allotment letter)	
5. CC00400000030433 Rajesh Gopichand Lanjewar	Flat details- Unit No. B2/105 TC-Rs.1919573/-. Paid-Rs. 2010075/- <u>NOTE</u> -(Payment plan 38 months)	Allotment letter-Not given (refer Demand for allotment letter dt. 09-02-2008)	
6. CC00400000030434 Indrajeet Satyajeet	Flat details- C8/703 on 7 th floor	Allotment letter dated 18-11- 2013	

Complaint nos. CC00400000030406 &8 Other Complaints

Banerjee	TC-Rs.2323945/- Paid- Rs. 2484454/-	17 months from the date of allotment (as mentioned in the allotment letter)
7. CC00400000030470 Rochish Madhukarrao Thaokar	Flat details- Unit no. C4-202 on 2 nd floor TC-Rs.2348000/- Paid- Rs.2666612/- NOTE: (Payment plan 38 months)	Allotment letter dated 24-12-2007 AFS-27-12-2007 (uploaded) 38 months from the date of allotment (as mentioned in the allotment letter)
8. CC00400000030503 Purushottam Tammala	Flat details- Unit No. B6/204 AFS uploaded is blur and not legible Paid- Rs. 2354458/-	Allotment letter dated 30-03-2009 AFS-24-06-2010 (Uploaded) 38 months from the date of booking/allotment
9. CC00400000050548 Satyanrayan Champalal Taori and Santosh Champalal Taori	Flat details- unit no. R5/335 (Type Independent Row House) TC-Rs.56,30,000/- Paid- Rs. 27,05,520/- as advance before the AFS dated 20/03/2009 NOTE: The Complainant No. 1 which contained the price of the said Independent Unit R5/335 as Rs. 63,00,000/- (Payment plan 38 months)	Allotment letter dated 18-06-2009 Booking Letter dated 29/09/2007 AFS- 20-3-2009 (uploaded) Possession dated 18-08-2012 (as per allotment letter)

6. It is the case of the complainants at **sr. nos. 1 to 9** that they have booked the said units in the respondent's said project vide an allotment letter/agreement for sale (as applicable), for which they have paid substantial amounts to the respondent, out of the said total consideration amounts (as mentioned in the aforesaid table para no. 5). However, the respondent has failed to handover the possession of the said units as promised in the said agreement for sale/allotment letters.

Notably, in **sr. no. 1**, the complainant late Sadashio Parate has booked the said flat as mentioned in para no. 5, however, he expired and hence, all rights in respect of the said flat got transferred to the nominees of the said complainant.

7. The complainant at sr. no. 6, has additionally submitted that Mr. Ravi Triloklal Jaiswal then applied for transfer of the said booked flat in favour of one Ms Jyotshna Banerjee, Mr. Satyajeet Banerjee and Mr. Indrajeet Banerjee jointly and the respondent had transferred the same on 16/04/2014 by issuing confirmation letter of Registration and Allotment on 29/04/2014. The respondent had registered the booking and allotted the said flat with fully paid amount assuring that the possession of the flat is to be handed over on or before 29/09/2015. However, the possession was not handed over to them. Hence, being aggrieved by the said action on the part of the respondent, they have filed the present complaint.
8. In complaint at sr. no. 7, it is mentioned that Madhukar Thaokar died in the year 2007 and hence, the said complaint is filed by his legal heir.
9. The complainants in sr. no. 9 have uploaded their written submissions on record of MahaRERA on 05-08-2024 reiterating what has been stated in their complaint. Further, the said complainants, Satyanarayan Champalal Taori and Santosh Champalal Taori are the legal representatives i.e. are sons of Late Laxmidevi Champalal Taori. The respondent issued a letter on 17/10/2007, wherein the respondent revised the price of the said unit booked by the complainant from Rs. 63,00,000/- to Rs. 56,30,000/-. It is further submitted that the respondent issued a letter dated 18/02/2009 to the said complainants, whereby the respondent was providing an additional discount of 3% to people falling in the category of senior citizen. It is further submitted that the complainant being a senior citizen became eligible for the discount provided by the respondent.

Accordingly, the said complainants applied for the said discount and the said discount was also approved by the respondent and now the complainants had to pay 3% less i.e. Rs. 1,68,900/- towards the total consideration of the said unit. The complainants further submitted that the price of the said unit, now to be paid by the complainants to the respondent came down to Rs. 54,61,100/-. This can be seen from the letter dated 18/02/2009 issued by the respondent. They further submitted that in the last paragraph of the agreement for sale (at page no. 3), it is clearly stated that the complainants had paid an amount of Rs. 27,05,520/- as advance towards the cost of the said unit and the receipt of the same is duly acknowledged by the respondent. The complainants further submitted that the respondent vide letter dated 28/12/2007 informed the allottees of Sahara City Homes, Nagpur that certain banks i.e. Axis Bank Ltd. (UTI Bank Ltd), HDFC Ltd, IDBI Bank Ltd., LIC Housing Finance Ltd. and State Bank of India banks were providing loan facilities to the allottees of Sahara City Homes for their convenience for purchase of the house/unit at Sahara City Homes. It is further submitted that, after registration of Agreement to Sale, on 24/04/2009, the complainant with one of her legal representative Mr. Santosh Inderchand Taori, had applied for a Home Loan with State Bank of India, Itwari Branch, Nagpur for an amount of Rs. 27,50,000/-, to pay the balance outstanding consideration in respect of the suit property. They further submitted that the term home loan was sanctioned by the aforesaid bank vide letter dated 28/05/2009. Further, a No Objection Certificate from the respondent was required to obtain a loan and therefore, they had written a letter dated 30/05/2009 to the respondent to issue an NOC in respect of the suit property. They further submitted that an No Objection Certificate dated 30/05/2009 was issued by the respondent in respect of the said suit property/unit to the complainants so that the complainants can avail loan from the aforesaid State bank of India. Pursuant to this, the complainants have also entered into an Agreement to Mortgage dated 02/06/2009 with State Bank of India, Itwari Branch, Nagpur in respect of the suit

property/unit. Further, as per the payment schedule issued by the respondent they were required to pay an amount of Rs. 54,61,100/- towards the consideration of the suit property. It is further submitted that the loan was duly sanctioned, and the loan amount was disbursed by the bank accordingly into the account of the respondent. It is pertinent to mention here that the complainants had duly paid the consideration of the suit property to the respondent and the same as also been acknowledged by the respondent. However, the respondent failed to handover possession as per the terms and conditions. It is further submitted that the respondent has issued a letter dated 17/03/08 wherein, the respondent promised to provide the first possession in the township by the year 2009. The payment was to be made as per the stages of completion of the project but despite receiving most of the payment, the respondent has failed to handover possession. The complainants have paid the entire balance amount left. A letter dated 15.9.2016 was received from the respondent, wherein a promise was made by respondent to pay Rs. 15,90,064/- as reimbursement due to losses for delayed period and it had also assured additional reimbursement for losses in case of further delay. Thus, similarly the complainants are liable to be also granted compensation of the same amount.

10. In the present case, the MahaRERA has noticed that the complainants have filed these complaints before the MahaRERA seeking reliefs under section 18 of the RERA on 03/08/2022 (Sr. No. 1), on 09/09/2022 (Sr. No. 2) , on 15/09/2022 (Sr. No. 3), on 19/10/2022 (Sr. No. 4), on 28/11/2022 (Sr. No. 5), on 28/11/2022 (Sr. No. 6) , on 18/02/2023 (Sr. No. 7), on 30/04/2023 (Sr. No. 8) and on 21/09/2023 (Sr. No. 9), however, till date the respondent promoter has not bothered to file its reply to these complaints, though these complaints were visible to the respondent in its project. Also as per the SOP dated 12-06-2020, the respondent was liable to upload its reply in digital form in these complaints. However, till date the respondent has not complied with the said SOP. Furthermore, though

the notice for hearings held before MahaRERA for first hearings (on different dates) and for final hearings held on 08-05-2024 and 24-07-2024 were duly served upon it, the respondent chose to remain absent for the said hearings. It shows that the respondent is not willing to contest these complaints. Hence, the MahaRERA has no other alternative but to proceed with the matters ex-parte against the respondent on merits.

11. The MahaRERA has examined the arguments advanced by the complainants. The complainants claiming to be the allottees of this project have filed these complaints seeking execution of registered agreement for sale/possession of the said flats along with interest (sr. no.2) / refund along with interest (sr. nos. 1 and 3 to 9), alleging delay in handing over of the possession of their respective units, under the provisions of section 18 of the RERA. The complainants have mainly contended that as per the said allotment letters/ agreements for sale (details mentioned in the aforesaid table at para-no. 5) the respondent has agreed to handover possession of their respective units on various dates as mentioned in the said allotment letters/ agreements for sale (as per the details mentioned in the aforesaid table at para-no. 5). However, despite substantial amounts being paid by them to the respondent promoter, it has failed to handover possession of the said units to them. Hence, they have filed these complaints seeking reliefs as sought for in the said complaints. To support their claims, the complainants have uploaded copies of the said allotment letters/ agreements for sale (as applicable and as mentioned in the aforesaid table at para-no. 5 above).
12. The complainant at sr. no. 3 by filing an amendment application on record of MahaRERA has also prayed for the reliefs under section 13 of the RERA for execution of agreement for sale, as there is only an allotment letter dated 29-10-2007 issued by the respondent for the said booking.

13. From the aforesaid submissions made by the complainants, the MahaRERA has noticed that all these complainants have sought substantive reliefs under section 18 of the RERA towards possession of their unit/ refund of the entire money paid by them along with interest alleging the delay on the part of the respondent handing over possession of their respective units as per the agreed dates of possession mentioned in their respective allotment letters/ agreements for sale (as applicable).

14. Hence, before dealing with the facts in these complaints, it is pertinent to examine the term "**possession**" as contemplated under section 18 of the RERA, which reads as under:

"18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building, –

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

15. From a plain reading of section 18, it is very clear that if the promoter fails to handover possession as per the terms of the agreement for sale or as the case may be (in this case allotment letters), by the specified date therein, the allottee has a

choice either to withdraw from the said project or to stay with the project. In case the allottee chooses to stay in the project and take possession, he is entitled to claim interest for the delayed period of possession on the actual amount paid by him for every month of delay. Further, in case the allottee chooses to withdraw from the project, the respondent is liable to refund the amount paid by the complainant along with the interest.

16. In the present case on bare perusal of the submissions made by the complainants in their online complaints and also the supportive documents submitted along with their complaints, it appears that the respondent has issued the said allotment letters/ executed the registered agreements for sale with these complainants (as applicable) between the year 2007 till 2013 i.e. nearly 17 / 9 years back (as applicable, as per the allotment letters mentioned in the table at para no. 5). Further, in complaint at sr. no. 6, the new allotment letter was issued in favour of the said complainant on 29-04-2014. However, till date the respondent has not handed over the possession of their respective units to the complainants even after a period of 17/9 years(as applicable). The said delay is inordinate delay caused by the respondent in completion of the said project. Moreover, as per clause no. 1 of the said agreements (sr. nos. 1, 7, 8 and 9) the respondent was liable to handover possession of the said units to these complainants after payment of full amount by the complainants. In this case the record shows that the complainants have made substantial payments towards their respective units, however till date the possession has not been handed over to these complainants.

17. In this regard, it is pertinent to note that the Hon'ble Supreme Court of India in its various judgments has settled the law that the reasonable time period for completion of the project is three years. Hence, if the said principle is applied in this case, the respondent was liable to handover the possession to the complainants in the year 2011. However, the respondent has failed to handover the possession to the

complainants. Further, the respondent has also not mentioned any specific dates of possession in the agreements for sale executed with the complainants (sr. nos. 1, 7, 8 and 9) and thereby it has violated the provisions of section 3(2)(f) of the MOFA under which these agreements for sale were executed. It shows that the respondent has violated the prevailing provisions of MOFA.

18. The record further shows that, while registering the project with the MahaRERA, the respondent has shown the proposed date of completion as 30/06/2021 and the same has been extended to 30/10/2026. However, even on the proposed date of completion of this project i.e. on 30-06-2021, the project was incomplete and the possession was not handed over to the complainants. Therefore, the complainants cannot be made to wait indefinitely for possession of their units. The respondent has failed to give any justified reasons for the said delay caused for handing over possession of the units to the complainants for such an unreasonable period of 17 years and thereby has violated the provisions of section 18 of the RERA.
19. Moreso, all these contentions /allegations/ submissions made by these complainants with regard to the allotments of their respective units (as per allotment letters/ agreements for sale) as well as the claims of the complainants about the dates of possession mentioned in their respective allotment letters (as per the details mentioned in the aforesaid table at para-no. 5) remain undisputed and unchallenged. Hence, in this case, the MahaRERA prima facie feels that the complainants are entitled to seek reliefs under section 18 of RERA.
20. As far as the complaint at sr. no. 2 is concerned, admittedly, the said complainant has paid entire consideration amounts to the respondent, despite that the agreement for sale has not been signed with the said complainant. It shows that the respondent has not only violated the prevailing provisions of section 4 of the MOFA (under which the said booking was done) but also the provisions of section 13 of the RERA, as it

has also failed to execute the agreement for sale after commencement of the RERA. Hence, the amendment application filed by the said complainant needs to be allowed. Needless to state here that the respondent has neither challenged the said complaint filed by the said complainant, nor has opposed the said amendment application filed by the said complainant at sr. no.2.

21. The MahaRERA has also noticed that, as stated hereinabove the said allotments were done a decade ago and hence obviously, the original allottees may not be alive and hence, the respondent in such cases needs to transfer the said units to their respective legal heirs by certifying the relevant heirship documents. The MahaRERA in such complaints cannot take the decision on their heirship issue (as applicable).

22. In the present case, it is pertinent to note that the Ld. Erstwhile Member-1/MahaRERA has already passed an order in a similar complaint in the present project bearing no. CC00600000030190 filed by Mr. Sanjay Paliwal, granting interest reliefs under section 18 of the RERA to the said complainant allottee for the delayed possession from 01/05/2017 till handing over possession to the said complainant. Hence the complainant (at sr.no.2) being a similarly placed allottee of the said project, is also entitled to seek similar reliefs at par with the other allottees of this project.

23. In view of these facts, the MahaRERA is of the view that the respondent promoter has failed to complete its liability for completion of the said project as committed by it under the said allotment letter/ agreements for sale (as applicable) and has caused inordinate delay in completion of the said project. Hence, the complainants at sr. nos. 1,3 to 9 are also entitled to seek refund along with interest from the date of commencement of the RERA. It is ostensibly because the said complainants have also slept over their rights under the said allotment letters/ agreements for sale for more than a decade. Further, they have also not given any plausible explanation for the said

delay in filing these complaints.

24. As regards the claim of compensation sought by the complainant at sr. no. 2 under section 18 of the RERA, the MahaRERA is of the view that since the said complainant-allottee is willing to remain in the project and to have possession of the said unit, hence he is entitled to seek interest on account of the delay. Therefore, his claim towards the compensation stands rejected in view of the explicit provisions of section 18(1) of the RERA.

25. As far as the claim of compensation sought by the complainant allottees at sr. nos. 1 and 3 to 9, the MahaRERA has noticed that the allottees during the course of hearing have not pressed for compensation and also to transfer these complaints to the Ld. Adjudicating Officer/MahaRERA for deciding the quantum of compensation under sections 71 and 72 of the RERA. Needless to state here, as per the explicit provisions of the RERA, the MahaRERA has no jurisdiction to grant any compensation to the complainant allottees. However, the complainant allottees are always at liberty to agitate their grievances about the compensation by filing separate complaints before the Ld. Adjudicating Officer/ MahaRERA in Form-B as prescribed under relevant Rules framed under the RERA, if they so desire.

26. In the present case, it is pertinent to note that there are various orders passed by the MahaRERA deferring such refund / payment of interest till date of completion of the project i.e. till the date of occupancy certificate is obtained. Such directions are issued by the MahaRERA mainly keeping the interest of the project and to ensure timely completion of the project. No doubt the main intention of the RERA legislation is not only to regulate but to ensure the development which will happen only when the project gets completed in a time bound manner. The diversion of funds during the implementation of the project would definitely affect the cash flow in the project and the possibility that the project may get further delayed. The same may result into

further delay in possession of the flats to the homebuyers who seek possession of their flats. The provisions of sections 32 and 38 (2) of the RERA empowers the MahaRERA to issue such direction to achieve the aim and object of the RERA. Hence, issuing such directions, may definitely not amount to the dilution of any other provisions of the RERA as it is done balancing the interest of the allottees and the promoter as per the RERA.

27. In addition to this, it is pertinent to note that the MahaRERA by issuing various orders has declared the covid-19 pandemic period as force majeure factor which is beyond the control of the promoter. Accordingly, the one-year grace period is given to all the promoters which have registered their projects with MahaRERA. Furthermore, it is pertinent to note that the Hon'ble Bombay High Court by considering the lockdown restriction issued by the Central as well as the State Government on account of the said Covid-19 pandemic has issued various orders in Suo Moto PIL No. 1 of 2021 thereby extending the interim orders passed by it in various matters. Even, the Hon'ble Supreme Court of India by taking cognizance of the said epidemic has also passed various orders in Suo Moto Writ Petition (Civil) No. 3 of 2020 and has extended the limitation period from 15-03-2020 till 28-02-2022, thereby the said period was excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all the judicial or quasi judicial proceedings. No doubt the said pandemic affected all sectors of the society including the real estate sector. Keeping the same in mind, the MahaRERA has taken such general decision by issuing said orders in the interest of all the projects registered with the MahaRERA. Hence, the promoter in this case, is also entitled to seek benefit of the said covid-19 pandemic while making the payments towards the interest amount. The said general decisions cannot be changed for this particular project nor any exception can be made considering the above.

28. In view of the aforesaid facts, the following order is passed:

- a. These complaints are partly allowed.
- b. The claim of compensation sought by the said complainants stands rejected in view of the observations made in the aforesaid para nos.24 and 25 (as applicable).
- c. The respondent promoter is directed to execute the registered agreement for sale with the complainant at sr. no. 2 as per the allotment letter dated 29-10-2007 within a period of 2 months from the date of this order.
- d. The respondent is also directed to pay interest for the delayed possession to the said complainant at sr. no. 2 from 1-05-2017 (date of commencement of the RERA as per the earlier order passed by the Ld. Erstwhile Member 1/MahaRERA as per para- 22 mentioned above) for every month till the date of offer of possession with OC on the actual amount paid by the said complainants towards the consideration of the said units at the rate of Marginal Cost Lending Rate (MCLR) of SBI plus 2% as prescribed under the provisions of section 18 of the RERA and the Rules made thereunder.
- e. Needless to state here that the actual amount as provided under section 18 of the RERA means the amount paid by the said complainant at sr. no. 2 towards the consideration of the said unit only, excluding the stamp duty, registration charges and taxes etc. paid to the government.
- f. However, in view of the mitigating circumstances beyond the control of the respondent promoter and also to ensure that the said project is not jeopardized due to the outflow of finances and is completed keeping in mind the interest of the other buyers of the said project at large, it is directed that the amounts of interest shall be paid by the respondent promoter to the said complainant at sr.no. 2 after obtaining the full occupancy certificate. Also, the respondent promoter at the time of possession of the said unit to the said complainant at sr. no. 2 , may set off the outstanding dues with the interest amount payable by it to the said


complainants and the balance amount if any, by either party be paid at the time of possession.

- g. The respondent promoter is directed to refund the entire money paid by the complainant allottees at sr.nos. 1 and 3 to 9 towards the consideration of the said units along with interest at the rate of SBI's Highest 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 thereunder, from the date of commencement of the RERA i.e. 1-05-2017 till the actual realization of the said money to the said complainant allottees. Till then, the said complainant allottees shall have a charge on the said units.
- h. Needless to state here, that the actual amount as provided under section 18 of the RERA means the amounts paid by the complainant allottees towards the consideration of the said units only, excluding the stamp duty, registration charges and taxes etc. (as applicable) paid to the government.
- a. However, in view of the mitigating circumstances beyond the control of the promoter and also to ensure that the said project is not jeopardised due to the outflow of finances and is completed keeping in mind the interest of the other buyers of the said project at large, the amount of refund along with interest payable by the respondent promoter to the said complainant allottees at sr. nos. 1 and 3 to 9 shall be made after obtaining the full occupancy certificate for the project.
- b. The complainant allottees at sr. nos. 1, 7, 8 and 9 are also directed to execute a cancellation deed on receipt of payment of refund from the promoter.
- c. With regard to the payment of interest to the complainant- allottees at the MahaRERA further directs that the promoter is entitled to claim the benefit of "moratorium period" as mentioned in the Notifications/

Complaint nos. CC00400000030406 & 8 Other Complaints

Orders nos. 13 and 14 dated 2nd April 2020, 18th May 2020 and 6th August, 2021 issued by the MahaRERA and the Notification/ Order which may be issued in this regard from time to time.

29. With these directions, all the 9 complaints stand disposed of.


(Mahesh Pathak)

Member - 1/MahaRERA

