

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

Complaint No. CC006000000055911 (NC)

Rajendra Eknath Pawar & Anr

..Complainant/s

Vs

**Bright Sky Height Builder &
Developer Private Limited**

..Respondent/s

MahaRERA Project Registration No. P51700009788

**Coram: Shri Ashok Alaspurkar
Hon'ble, Adjudicating Officer,
MahaRERA.**

Appearance:

Complainant/s : Appeared in person

**Respondent/s : Shri Milind Joshi,
Representative**

**O R D E R
(28.03.2025)**

1. The complainants had booked Flat No. 1203 in building no. 5 of the respondent's registered project known as "Galaxy Wing 5" bearing MahaRERA Registration No. P51700009788 located at Padale Village, Dist. Thane.
2. The registered Agreement for Sale was executed on 03.10.2014 and the possession was agreed to be handed over by December, 2016. The respondent did not comply with the terms of the Agreement and hence, the complainants have filed this complaint for refund of paid consideration and other reliefs. After hearing the parties, the Hon'ble Member- I decided the complaint by order dated 28.11.2022 with following directions:

"28. In view of the above facts and discussion, the following

order is passed:

- a. The respondent promoter is directed to refund the entire amount paid by the complainant towards the consideration of the said flat 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 there under, from the date of payment till the actual realisation of the said amount to the complainant.
- b. Needless to state here that the actual amount as provided under section 18 of the RERA means the amount paid by the complainant towards the consideration of the said flat only, excluding the stamp duty, registration charges and taxes etc. paid to the government.
- c. However, in view of the mitigating circumstances beyond the control of the respondent 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 be paid within a period of 3 months in equal instalments from the date of this order as this complaint is filed for refund in the year 2018.
- d. With regard to the payment of interest to the complainant, 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. "

3. The complainants reported non compliance of the order on 04.02.2025. The matter was pending before the Hon'ble Authority. The said execution has been transferred to the Adjudicating Officer in pursuance of the order of delegation of Powers dated 05.04.2023.
4. The matter was taken up for hearing on 25.02.2025 and thereafter on 25.03.2025. Both the parties were heard. It is apparent that the order has not been complied as yet. The representative for the respondent has submitted as follows:

"It is submitted on behalf of the respondent that the date for completion of the project is extended till 30.06.2025 and 95% construction is completed. It is further submitted that directors of the respondent promoter are not available for meeting till 15.05.2025."

This submission will not have any bearing on execution of the order.

5. As per the order dated 28.11.2022, the complainants are entitled to refund of paid consideration along with the interest as mentioned in the order. As per the complaint and the observations in the order, the amount paid towards consideration is Rs. 29,50,100/-. Therefore, this amount is refundable to the complainants. The complainants are also entitled to interest from the date of payment till realization of the said amount. It is pleaded in the complaint and also observed in the order that the said amount is paid "till date". The dates of payment are neither pleaded nor there is any finding in the order. It seems that the said amount is paid till date of the filing of the complaint i.e. 23.02.2018. Hence, the interest will have to be calculated on the said amount w.e.f

from that date.

6. Considering the mitigating circumstances, the refund of the amount and interest was directed to be paid within 3 months from the date of the order. The said date has already passed. However, the interest is not payable during the moratorium period. The interest on amount of Rs. 29,50,100/- at the rate of MCLR plus 2% w.e.f 23.02.2018 till 31.03.2025 considering the moratorium period comes to Rs.18,17,965/-. The complainants are also entitled to claim further interest on the said amount at the same rate w.e.f 01.04.2025 till the amount is realized by the complainants.

O R D E R

1. Issue recovery warrant u/s 40 (1) read with Rule 3 of RERA for recovery of amount of Rs. 29,50,100/- and the amount of interest of Rs. 18,17,965/-. And also for further interest on the amount of Rs. 29,50,100/- at the rate of MCLR plus 2% w.e.f 01.04.2025 till the amount is realized by the complainants.
2. With these directions, the present execution proceeding is hereby disposed of.
3. No order as to costs.

Date : 28.03.2025
Mumbai


(Ashok Alaspurkar)
Adjudicating Officer,
MahaRERA