BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, MUMBAI

1. Complaint No. CC006000000141000

Mr. Nilesh Sawant ..... Complainant

Versus

M/s. Mateshwari Realtors Pvt Ltd ..... Respondent

Project Registration No. **P51700010188**

Along with

2. Complaint No. CC006000000141001

Mr. Yogendra joshi ..... Complainant

Versus

M/s. Mateshwari Realtors Pvt Ltd ..... Respondent

Project Registration No. **P51700010188**

Along with

3. Complaint No. CC006000000141002

Mr. Shyam Pawar ..... Complainant

Versus

M/s. Mateshwari Realtors Pvt Ltd ..... Respondent

Project Registration No. **P51700010188**

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

Adv. Avinash Pawar appeared for the complainant.

CA Kirit Gada appeared for the respondent.

ORDER

(21st November, 2019)

1. These three complaints have been filed by the allottees in the project registered with MahaRERA bearing No. P51700010188 known as **"Mateshwari Altura B & C wings"** at Dombivli, Dist Thane under Section-18 of the Maharashtra Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "RERA"). They are seeking directions from the MahaRERA to the respondent to pay interest for the delayed period of possession in respect of booking of their flats in the said project of the respondent and also possession of their respective flats with occupancy certificate.

2. These complaints have been filed with respect to the same project. Hence, the same were clubbed together and heard on several occasions and finally heard on 18-11-2019. During the hearings, both the parties appeared through their respective advocates/CA and made their submissions. However, after hearing the arguments of both the parties, the respondent was directed to file on record details of communication made with the complainants informing the delay in the said project. Accordingly, the respondent has submitted the details on 20-11-2019.

3. It is the case of the complainants that they had booked their respective flats in the respondent's project and the registered agreements for sale were also been executed between both the parties. According to the said agreements for sale, the respondent was liable to hand over possession of the said flats to the complainants on or before December, 2016 and in case of Complainant at Sr. No. 3 filed by Mr. Shyam Pawar, the date of possession is given as 31-12-2017. But, till date the respondent has not handed over the possession of the said flats to the complainants. The complainants have paid 80% to 90-% amount to the respondent so far. Therefore, the complainants requested to grant relief under section-18 of the RERA, directing the respondent to pay interest for the delayed period of possession.

4. The respondent disputed the claims of the complainants and argued that there is no intentional delay on the part of the respondent for handing over possession of the said flat to the complainants. It further argued that the project has completed on site and it shall apply for occupancy certificate within a period of 2 months. The respondent further stated that the project got delayed mainly due to the litigations filed with respect to the ownership issues Further, the complainants have delayed the payment towards the outstanding amount as per the terms of the agreements for sale. However, it has not charged any interest for the said delayed payment. Besides, it had intimated the reasons for the delay to the complainants and have also paid some compensation to the complainants amounting to Rs. 2,00,000/-. The respondent in their additional submissions stated that if any compensation has to be paid to the complainants, the same is applicable from 1st May, 2017. The respondent, therefore, requested for dismissal of these complaints.

5. The MahaRERA has examined the arguments advanced by both the parties as well as the records. In the present case, admittedly, there are registered agreements for sale executed between the complainants / allottees and the respondent / promoter in which the date of possession was mentioned as December, 2016 and December, 2017 and till date the possession is not given to the complainants, though 80% to 90% amount has been paid by them. It shows that the respondent has violated the provisions of section-18 of the RERA. To justify the case, the respondent has argued that the project got delayed due to litigation filed with respect to the ownership issue.

6. The reasons cited by the respondent cannot be accepted at this stage. The said reasons are not covered under the force majeure clause. There is no fault on the part of the complainants, who have put their hard earned money for booking of the said flats in the respondent's project. The respondent is, therefore, liable to pay interest to the complainants for delay in accordance with the provision of section-18 of the RERA.

7. In view of above facts and discussions, the respondent is directed to pay interest to the complainants from the date of possession in the agreements for sale till the actual date of possession at the rate of Marginal Cost Lending Rate (MCLR) of State Bank of India (SBI) plus 2% as prescribed under the provisions of Section-18 of the RERA. Since the project is nearing completion, the MahaRERA directs that the actual amount payable to the complainants towards the interest, shall be adjusted with the balance amount payable by the complainants, if any, and the same shall be paid at the time of possession. The MahaRERA further directs that if any compensation has already been paid to the complainants shall also be deducted from the total amount payable by the respondent towards the interest for the delayed period of possession.

8. With these directions, all the three complaints stand disposed of.

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