BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, MUMBAI

Complaint No. CC12600551

Mahesh Ganesh Mamgai ..Complainant/s

Vs

S D Corporation Private Limited ..Respondent/s

MahaRERA Project Registration No. P51800019693

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

Appearance:
Complainant/s : Adv. Akshay Deshmukh present through VC

Respondent/s : Adv. Abir Patel present through VC

O R D E R
(08.07.2026)

1. The complainant had booked Flat no. 804 along with single car parking in the respondent's registered project known as "Siennaa - F Wing" bearing MahaRERA project no. **P51800019693** located at Borivali, Mumbai. The registered Agreement for Sale dated 24.07.2019 was executed and the possession was agreed to be handed over by 31.12.2023. Out of the total consideration of Rs. 1,43,12,231/-, the complainant paid amount of Rs. 1,35,96,619/-. The respondent did not hand over possession as per promise. Hence, the complainant filed complaint no. CC12500409 for claiming compensation. The said complaint was decided by Hon'ble Chairperson by common order dated 26.12.2025. The present

complaint is referred at sr. no. 3. Considering the fact that the complaint was in respect of the compensation, liberty was granted to approach the Adjudicating Officer by fresh application.

2. The complainant filed present complaint and has contended the above said facts. It is further mentioned that the agreed date of possession was 31.12.2023 and as per Order of State Government/RERA, it was extended till 31.06.2024, on account of Covid-19. It is further submitted that there was further extension of six months by Order dated 06.08.2021 and the revised date of possession was extended till 31.12.2024. However, since that date, the respondent has not handed over possession till the date of the filing of the present complaint. The respondent had given false assurance that the construction of the said 'E and F wing' will start by April. However, it has not been started.

3. It is further pleaded that since the subvention scheme was expired, the pre-EMI interest was debited from the account of the complainant. It was the responsibility of the respondent, however, relying on the respondent's assurance, the complainant permitted the debit of such EMI from his account. The complainant also claims sufferance of rental expenses of Rs. 42,000/- from January 2024 till actual handover of possession. He also claims compensation for mental stress and agony and costs, etc. Following are the reliefs sought:

> *"a) Be pleased to allow this application.*
>
> *b) Be pleased to direct the Respondent to pay the compensation for the delay in the form of interest on the total amount paid i.e. Rs. 1,35,96,619/- from the contractual possession date 31/12/2023 until handover of actual possession.*

c) Be pleased to direct the Respondent to pay the rental compensation of Rs. 42,000/- from January 2024 till the actual handover of the possession.

d) Be Pleased to Award compensation towards loss of interest / opportunity cost on the Applicant's own funds utilized to service EMIs under Section 72 of the Act.

e) Be pleased to direct the Respondent to pay the compensation of Rs.5,00,000/- For the mental stress and agony caused to the Applicant because of the inactions done by the Respondents.

f) Be pleased to direct the Respondent to pay the cost of Rs.1,00,000/- as legal fee required to file the present complaint before this Authority.

g) Be pleased to pass any other order or relief as this Hon'ble Adjudicating Officer may deem fit and proper in the facts and circumstances of the case, in the interest of justice and equity."

4. The respondent filed reply dated 20.05.2026. It is pleaded that the Adjudicating Officer has no jurisdiction to decide the present complaint as per the law settled in Newtech Promoters and Developers Pvt Ltd Vs. State of Uttar Pradesh and Ors 2022 (1) R.C.R (Civil) 357 decided on 11.11.2021. The compensation cannot be based on mere assertions, but it has to be pleaded and proved. The respondent has further pleaded that as per the terms of agreement, the complainant is not entitled to reimbursement of rent or rental compensation nor is entitled to the same in the event of delay in handing over possession. The complainant has not placed on record any evidence to support the claim of rental

compensation of Rs. 42,000/-. It is also not the case of the complainant that the flat was purchased for commercial rent.

5. It is further pleaded that to support the claim of mental stress and agony, the complainant has not produced any medical record or any other material in support of the same.

6. As per clause 9 of the Agreement for Sale, it was agreed that the date of possession would be subject to extension due to occurrences of the events beyond the control of the respondent or other mitigating events. As such, the date of possession was extendable and not fixed. Because of the pandemic, the Hon'ble Authority vide Suo Motu Orders dated 18.05.2020 and 06.08.2021, granted extension of 12 months for handing over the possession. Since the timeline on account of Covid-19 and the possession date falls after the date of the orders of the Authority, the date of possession automatically stands extended till December 2026. As such, this complaint is premature. Even after lifting of the lockdown, on account of various factors beyond the control of the respondent like shortage of labour, hurdles in procuring construction materials, etc., the project could not be completed.

7. Because of the above reasons, the complainant was informed by emails dated 25.03.2026, 14.04.2026 and 15.05.2026, that the revised date of possession would be June 2026. There is no breach of terms of Agreement for Sale. The claim is based on the contract between the parties and therefore the present claim is barred under section 55 of the Indian Contract Act. The issue as to pre-EMI interest is beyond the jurisdiction of this forum.

8. The complainant filed rejoinder dated 06.06.2026 and denied all the adverse contentions and reiterated the contentions in the complaint.

9. The respondent claims that the Adjudicating Officer has no jurisdiction to decide the present complaint. The decision of the Hon'ble Supreme Court in Newtech is also referred. The Hon'ble Supreme Court has held that the Adjudicating Officer can decide the issue as to compensation as per section 18(3) of the RERA Act, 2016. In the present case, the complainant had not claimed interest for delayed possession in the previous complaint decided by the Hon'ble Authority. Considering the law prevalent at that time, liberty was granted to file the complaint for compensation. It is not disputed that out of the total consideration, the complainant has paid an amount of Rs. 1,35,96,619/-. The Agreement for Sale was executed on 24.07.2019 and possession was agreed to be handed over by 31.12.2023. It is apparent from the contentions of the respondent that the possession is not offered or handed over till date. The respondent claims extension till December 2026. As per the terms of the Agreement, the date of possession was extendable for reasons beyond the control of the respondent. The complainant has considered the pandemic period and the orders issued by the State Government/RERA and has pleaded that it has to be taken as extended till 31.12.2024. By that time, there was no lockdown nor there were any restraints from the government. Apparently, the project is not yet completed. The reasons as to non-availability of workers or construction materials, etc. cannot be said to be the circumstances beyond the control of the respondent. Considering all the facts stated above, the respondent was bound to complete the project by 31.12.2024 or at least within a reasonable period thereafter. The complainant has invested a huge amount of Rs. 1,35,96,619/-. However, he did not get the possession within a reasonable time. As such, for such hardships, the complainant is entitled to claim compensation. The compensation cannot be denied on the

grounds that no medical evidence is produced regarding the mental stress and agony. The complainant has claimed Rs. 5,00,000/- as compensation. Considering the facts and circumstances as pleaded by both the parties, in my view, compensation of Rs. 2,00,000/- would be just and proper.

10. The complainant has claimed compensation in the form of interest on paid consideration from 31.12.2023 till the date of possession. This relief was not claimed before the Hon'ble Authority having jurisdiction till the complaint no. CC12500409 was decided. As per the law laid down by the Hon'ble Supreme Court, this relief can only be claimed before the MahaRERA Hon'ble Authority. Hence, it cannot be granted by this forum.

11. The complainant has claimed Rs. 42,000/- on account of rental compensation from January 2024 till the actual date of handing over of possession. The complainant has not pleaded as to how he has incurred the rental liability. This aspect is also referred by the respondent as there were no specific pleadings or any other evidence. Though the complainant filed rejoinder, no specific facts are brought on record to consider the said claim. Hence, it cannot be granted.

12. It is the case of the complainant that the Agreement was as per the subvention scheme and the Bank EMI was payable by the respondent. Since the respondent failed to pay the EMI, the complainant allowed the bank to deduct the same from his own account. The EMI adjustment can be considered when the due possession is handed over to the complainant. Therefore, at this stage, it cannot be decided and the complainant can take the action as may be required after obtaining possession.

13. From the facts and circumstances stated above, the complainant is entitled to compensation of Rs. 2,00,000/-. The respondent has to pay it within one month from the date of this order, failing which, he shall be liable to pay interest at MCLR + 2% from the date of the default till the payment of the same is realised by the complainant. The respondent is also liable to pay cost of Rs. 50,000/- to the complainant.

ORDER

1. The respondent shall pay compensation of Rs. 2,00,000/- within one month from the date of this order. Failing which, the respondent shall be liable to pay interest at the rate of MCLR + 2% from the date of the default till the payment of the same is realised by the complainant.
2. The respondent shall also pay cost of Rs. 50,000/- to the complainant.
3. The present complaint is hereby disposed of.
4. No order as to cost.

ASHOK LILADHAR ALASPURKAR

Digitally signed by ASHOK LILADHAR ALASPURKAR
Date: 2026.07.09 11:05:30 +05'30'

Date : 08.07.2026
Mumbai

(Ashok Alaspurkar)
Adjudicating Officer,
MahaRERA