

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

Complaint No. CC00600000056045

Mr. Ajay Nadkarni
Mrs. Sharmila Nadkarni

.... Complainants

Versus

M/s. Era Realtors Pvt. Ltd.
M/s. Omkar Realtors and Developers
Project Registration No. **P51800010463**

.... Respondents

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

Adv. Shivangi Kedia appeared for the complainant.

Adv. Devendra Patankar a/w Adv. Rakesh Patel appeared for the respondent.

ORDER

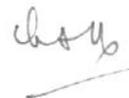
(29th January, 2020)

1. The complainants has filed this complaint seeking directions from MahaRERA to the respondent to refund the entire amount paid by him to the respondent along with interest under Section-18 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "RERA") in respect of booking of a flat in the respondent's project known as "**Alta Monte and Signate**" bearing MahaRERA registration No. **P51800010463** situated at Malad (East), Mumbai.
2. This complaint was heard on several occasions and is heard finally today, when during the hearing both the parties appeared and made their respective submissions.
3. It is the case of the complainants that they have booked a flat in the respondents' project for a total consideration amount of Rs.5,43,17,350/- plus other charges. The respondent has issued allotment letter on 18.12.2014. Thereafter, the registered agreement for sale was executed on 20.12.2014 between them. According to the said agreement, the respondent had agreed to hand over the possession of the flat to them on or before June, 2017, however, till date the possession has not been handed over the

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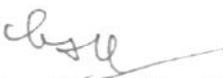
complainants. The complainants stated that till date they have paid an amount of Rs. 4,31,57,584/- plus other charges towards stamp duty and taxes and the project is still incomplete and possession is not given to them. Hence the present complaint has been filed seeking refund along with interest.

4. The respondent on the other hand has stated that as per the registered agreement for sale entered into between them and the complainants the possession was to be given on or before 1st June, 2017 subject to grace period of six months. However, on the MahaRERA website they have given revised completion date of this project as 31st December, 2020 which is yet to come. The respondent further stated that they have undertaken such a huge project on a larger layout under the S.R. Scheme and as per the scheme parameters they were supposed to construct approximately 2772 nos. of rehab tenements for rehabilitation of slum dwellers and in lieu thereof they were entitled to construct four towers namely A,B,C and D out of which Tower A and C have been completed on site and the construction of this Tower D wherein the complainants' flat exists is in progress and will be completed in due course. The project under reference got delayed mainly due to the force majeure event which were beyond the control of the respondent and the said delay was informed to all flat purchasers from time to time. The project got delayed due to the delay in getting the permission from the government and semi-government authorities. The slum dwellers / social workers had filed various litigations which caused loss of time and money to the respondent. The dharna agitation carried out by the non-eligible slum dwellers from 23rd May, 2016 which ended in February 2018 due to which the respondent was constrained to filed Writ Petition No. 1946 of 2016 before the Hon'ble High Court at Bombay and during that period the movement of labour and materials to the project got restricted. The project was also delayed due to the economic downfall, demonetization as the flats could not be sold in the market and hence they could not generate the required funds for construction purpose. The respondent was constrained to change the building plans and get the same approved from SRA. However, the



respondent showed their willingness to either allot alternative flat to the complainants or to refund the amount within a period of six months.

5. The MahaRERA has examined the arguments advance by both the parties as well as the records. According to clause no. 13 of the said Agreement the respondent as liable to hand over possession of the said flat to the complainants on or before 1st June, 2017 with grace period of six months and admittedly the possession has not been given to the complainants and hence the complainants are seeking refund of the amount along with interest under sec 18 (1) of the RERA.
6. The respondent on the other hand have cited reasons for the delay stating that the said factors were beyond their control. However, the respondent showed their willingness to refund the amount along interest as prescribed under RERA and the rules and regulations made thereunder.
7. In view of the said facts since the respondent has violated the provisions of section-18 of the RERA they are liable to refund the amount to the complainants as per the provisions of section-18 of RERA. Hence the respondent is directed to refund the amount paid by the complainants along with interest as prescribed under RERA and the rules and regulations made thereunder within a period of three months from date of the receipt of this order.
8. With the above directions, the complaint stands disposed of.


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