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**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI
APPEAL NO. AT005000000042058**

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| 1] Rameshwar Radheshyam Maniyar |] | |
| Age: 44 years, Occn. Architect. |] | |
| |] | |
| 2] Asha Rameshwar Maniyar |] | Appellants |
| Age: 41 years, Occn. Homemaker, |] | |
| Both residing at: Flat No.8, Shripad Apartment, |] | |
| Lane 3, Plot No.243, Right Bhusari Colony, |] | |
| Kothrud Depo, Pune -411 038 |] | |

Vs.

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| Landscape Realty |] | |
| PNG House, 694, Narayan Peth |] | |
| Laxmi Road, Pune 411 030 |] | |
| 101 Amelia, Near Ambassador Hotel |] | Respondent. |
| Opp. Pratibha Nursing House, Lakaki Road, |] | |
| Model Colony, Pune 411 006 |] | |
| 101 Express Tower, |] | |
| 594, Sadashiv Peth, Laxmi Road, |] | |
| Pune 411030 |] | |

Ms. Manjiri Barve, Advocate, for appellants.
Mr. Sorabh Sapar, Advcoate, for respondent

**CORAM : INDIRA JAIN J., CHAIRPERSON
DR. K SHIVAJI, MEMBER (A)**

DATE : 14th JANUARY 2022



(THROUGH VIDEO CONFERENCE)**JUDGMENT [PER: INDIRA JAIN, J.]**

This appeal takes an exception to the part of judgment and order dated 30th October 2019 passed by learned Member, MahaRERA in Complaint No.CC005000000022150, thereby declining reliefs of interest and compensation to the appellants.

2] Material facts emerging from the pleadings of the parties can be summarized as follows :

- i] Appellants are allottees. Respondent is promoter developing project known as Anantsrishti Phase-I, situated at village Jambhul, District: Pune. Complainants booked row-house for total consideration of Rs.60,55,215/- in respondent's project. Agreement for sale was executed by promoter on 31.07.2015. Complainants paid 100% consideration as agreed.
- ii] As per agreement for sale, date of possession to deliver row-house was on or before 31st December 2016. As promoter failed to deliver possession, complainants filed complaint before MahaRERA seeking possession and other ancillary reliefs including delayed possession interest and compensation.



3] Promoter appeared before MahaRERA and stated that row-

house is ready for fit-out possession. It was contended that as per revised completion date of possession mentioned on MahaRERA portal, possession is to be handed over by 31st March, 2020 and on procuring Occupation Certificate, respondent would hand over possession.

4] Based on the pleadings of parties and particularly statement on behalf of promoter, MahaRERA directed promoter to hand over possession of row-house to complainants with occupancy certificate within a period of five months and also to provide all amenities mentioned in the agreement for sale. The reliefs regarding interest and compensation sought by complainants were impliedly declined by the Authority.

5] Being aggrieved allottees have assailed the part of impugned order in this appeal on the following grounds:

- i] Though specific reliefs were claimed in complaint for interest and compensation, Authority while partly allowing complaint passed order merely on statement made on behalf of promoter thereby brushing aside the ancillary reliefs claimed by complainants in unreasoned order.
- ii] Appellants have borrowed bank loan and paid entire consideration long back. This fact has been completely lost

sight of by the Authority by not granting reliefs for interest on delayed possession and compensation.

- iii] On the similar set of facts in complaint No.CC005000000023028 against same respondent, Authority by order dated 1st October 2019 allowed simple interest to the tune of Rs.10.4% from the committed date of possession and costs of Rs.20,000/-. This case relates to the same project and complaint is also based on identical facts.
- iv] Respondent in reply to legal notice unequivocally admitted that he is ready to pay interest for delay in delivery of possession as per Rule 18 of The Maharashtra Real Estate (Regulation and Development) Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of interest and disclosures on Websites) Rules, 2017 (for short, "2017 RERA Rules"). Despite clear admission of promoter to pay interest, Authority without recording reasons, refused to grant interest to complainant.
- v] Promoter instead of acting on the admission to pay interest, started making illegal demand from the complainants. Though it was incumbent on promoter to deliver possession as per agreement, respondent without obtaining consent of allottees started making changes in the project in contravention of provisions of Section 14 of the Real Estate (Regulation and Development) Act, 2016. The conduct of respondent in failing to obtain consent of allottees for modification is apparent from para 5 of the Notice dated 13.10.2017 addressed by appellant

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to promoter.

- vi] As respondent failed to deliver timely possession as per agreement, appellants have a legal right to claim interest and compensation. Appellants, therefore, urged to reconsider the order dated 30th October, 2019 and grant prayer clause (b) and (c) in complaint. As per prayer clause (b) appellants are claiming amount of Rs.25,00,000/- for failure to provide committed amenities and vide prayer clause (c), claiming interest at the rate of 24% per annum for delayed possession from 1.1.2017 till delivery of possession.

6] Respondent appeared and resisted appeal by filing reply.

- i] It is not in dispute that agreement for sale of row-house was executed on 31st July 2015 in favour of complainants. According to respondent on a vague statement, appellants have demanded Rs.25,00,000/- towards alleged committed amenities. It is contended that as no legal and justifiable reasons have been assigned, prayer to the extent of compensation of Rs.25,00,000/- needs to be rejected at the threshold.

- ii] Regarding interest, submission of promoter is that appellant No.1 made numerous and frivolous complaints against respondent with ill-intention of stalling the entire project. It is alleged that appellants by filing various frivolous complaints against respondent before various judicial /quasi judicial authorities created obstruction in the progress of project and

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