

**MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL,
MUMBAI**

APPEAL No. AT0600000010831

Mr. Ashutosh Ashok Lokhande

Age: 29 years, Occupation: Service

R/o C-703, Mount Classic, Yogi Hills,

Mulund (West), Mumbai-400 080

.... Appellant

Versus

M/s. Balaji Construction, through its

Proprietor Mr. Anil Thakurdas Kursija

Having office at Tekchand Bhavan,

Bakery Lane, Plot No.17, 2nd floor,

Dadhu Vaswani Nagar, Kopri,

Thane-400 603

..... Respondent

Advocate Sachin S.Tigde, for Appellant.

Mr. Sunil M. Dongare, authorized representative of Respondent.

CORAM : SUMANT KOLHE, MEMBER (J)

S. S. SANDHU, MEMBER (A)

DATE : 14th February, 2020



JUDGMENT**(PER S.S. SANDHU, MEMBER (A))**

Aggrieved by the order dated 28.09.2018, passed by the learned Chairperson (hereinafter 'The Authority') in complaint No.55647, Appellant has filed this appeal.

2. As per facts of this case Appellant purchased an apartment bearing number 904 in the project being executed by Respondent at Ghodbandar Road, Thane. In the registered agreement for sale executed in July, 2015 Respondent was to hand over the possession by December, 2015. As possession was not handed over as agreed, Appellant approached the Authority by filing the aforementioned complaint seeking directions thereby to Respondent to make a rectification deed by correcting the date of possession or make rectified agreement for sale for the said flat by providing true and correct date of possession. Alternatively, Appellant sought directions to Respondent to hand over a flat of similar dimensions within periphery of 5 kms. with requisite legal documents as per law. He also prayed for payment of interest as per the provisions of Section 18 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act' or RERA) for delayed possession. Appellant also sought penalty for contravention of certain provisions of the Act as per Section 61 along with costs of complaint.

3. In the proceedings before the Authority Respondent



explained that project could not be completed for the reasons beyond his control. He also submitted that the Authority in another complaint No. 23340 had also directed the Respondent to hand over the possession by May, 2020, in the same project. Therefore, he requested for similar order in this matter also. As seen from para 3 of the impugned order, the Authority recorded the statement of Appellant saying that he was interested in having the project completed and would not insist for interest for delayed possession for the time being. He is further stated to have said that he would be at liberty to demand interest for delay at appropriate time considering the efforts made by Respondent to complete the project.

4. After hearing the parties, the Authority passed the impugned order by giving thereby liberty to Appellant to demand interest at an appropriate stage and directed the Respondent to hand over possession before 31st May, 2020 subject to payment of interest to Appellant from June, 2020 till the actual date of possession.

5. The appeal is filed on following grounds:

a) The Appellant denied of having ever made statement as recorded in para 3 of the impugned order.

b) The Authority has not given findings on the demand of Appellant for imposing penalty under Section 61 of the Act for not disclosing area of the



project and permission certificate as required under the Act.

c) The Authority has neither given its finding in respect of the compensation sought by the complainant under Section 18(3) of the Act of the RERA nor granted the interest for the delayed period of possession from 31.12.2016 till actual date of possession.

6. As reliefs in terms of above grounds the Appellant has sought directions for Respondent to

i) Pay interest to Appellant for every month of delay till actual date of possession.

ii) Pay compensation to Appellant U/s 18(3) of the Act considering the facts and circumstances of the case.

iii) Pay penalty as per Section 61 of the Act for contravention of its provisions.

iv) Pay costs of Appeal and any other relief as may deem fit.

7. Heard the parties.

8. The Learned Counsel for Appellant reiterated the

