

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI**

**M.A. No. 598/22 (Possession)
In
Appeal No. AT006000000052359/20**

Moneyam Natesan ... Appellant

V/s.

Lokhandwala Kataria Construction Pvt. Ltd. ... Respondent

Alongwith

**M.A. No. 13/21 (Waiver)
In
Appeal No. AT006000000053301/21**

Lokhandwala Kataria Construction Pvt. Ltd. ... Appellant

V/s.

Mr. Moneyam Natesan ... Respondent

*Adv. Ms. Rama Subramanian for Appellant in Sr. No. 10 and for
Respondent in Sr.No.11.*

*Adv. Mr. Nimay Dave for Respondent in Sr. No. 10 and for Appellant
in Sr. No. 11.*

**CORAM : SHRIRAM R. JAGTAP, MEMBER (J) &
DR. K. SHIVAJI, MEMBER (A)**

DATE : 19th January, 2024

(THROUGH VIDEO CONFERENCE)

S. Jagtap

Advocate Ms. Rama Subramanian for Appellant and Advocate Mr. Nimay Dave for Respondent joined the video conference.

2] Following order is passed:

ORDER

1. Appeal No.AT0060000000533301/2021 is dismissed.
2. Appeal No.AT006000000052359/2020 is allowed with the following directions:

- (i) In modification of directions given in para 15 of the impugned Order relating to grant of interest for delay in possession, the Respondent/ Promoter is directed to pay interest to Allottees/ Complainants at the rate SBI's highest Marginal Cost Lending Rate (MCLR) plus 2% with effect from 01.07.2017 till the date of actual possession.
- (ii) The Respondent/ Promoter shall handover the possession of the subject flat to Allottees/ Complainants within a period of four weeks from the date of this Order by adjusting interest amount payable to Allottees/ Complainants against the balance consideration (Rs.84,37,600/-) and other charges, if any, payable by Allottees/ Complainants

Syagtop

as per the sale agreement (AFS). Surplus amount, if any, after adjusting the amount in the aforesaid manner shall be paid by the respective party to the other party.

- (iii) In the event the Allottees/ Complainants are found liable to pay further amount after adjusting the amount of interest payable by Respondent/ Promoter as directed hereinabove, the Respondent/ Promoter shall inform the same to Allottees/ Complainants within 15 days from the date of this Order. In such case, the possession shall be handed over within two weeks from the date of receipt of payment from the Allottees/ Complainants. After receipt of such information from the Respondent/ Promoter, the Complainants/ Allottees shall pay such amount to Promoter/ Respondent within two weeks, failing which such amount shall be liable to pay interest at the rate prescribed as above from the next day of 2 weeks till the date of actual payment.
- (iv) Failure to handover possession in the above manner, the Promoter/ Respondent shall be liable to pay

S. J. J. J.

further interest at the rate prescribed as above on the amount of interest payable by Respondent/ Promoter to Allottees/ Complainants up to the date of this Order. The interest shall be payable on the net amount with effect from 17.02.2024 till the date of actual possession.

- (v) Respondent/ Promoter shall pay cost of Rs25,000/- to the Allottees.
- (vi) Misc. Application No.598/2022 also stands disposed of accordingly.
- (vii) Misc. Application No.13/2022 also stands disposed of accordingly.

3. Copy of this Order be communicated to the Authority and the respective parties as per Section 44(4) of RERA, 2016.

3] Advocate Mr. Dave requests to stay the order passed by this Tribunal for four weeks. After considering the operative part of the order we are of the view that there is no necessity to stay order. Hence, request of Advocate Mr. Nimay Dave stands rejected.


(DR. K SHIVAJI)


(SHRIRAM R. JAGTAP)