

Nalawade

BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL, MUMBAI**APPEAL NO. AT006000000053455**

- | | | | |
|-----|---|---|-----------------|
| 1. | Shri. Nitin Madhukar Shewale |] | |
| 2. | Mrs. Shital Nitin Shewale |] | |
| | 19, Shree Ganesh Glory, |] | |
| | Nakshatra Colony, Aakashwani Tower |] | |
| | Gangapur Road, Nashik – 13. |] | ... Appellants |
| | |] | |
| | ~ versus ~ |] | |
| 1. | M/s. Sanklecha Construction Pvt. Ltd.] | | |
| 2. | Shri. Vijay Kachardas Sanklecha |] | |
| 3. | Shri. Dilip Kachardas Sanklecha |] | |
| 4. | Shri. Puneet Ajit Sanklecha |] | |
| | Registered office at, No.1, Ground Floor, |] | |
| | Pitru Mangal, Opp. Durga Garden, |] | |
| | M.G. Road, Nashik – 422 101. |] | ... Respondents |
| 5. | Shri. Bhimashankar Laxman Janmali |] | |
| 6. | Shri. Shrikrishna Laxman Janmali |] | |
| 7. | Smt. Sitabai Laxman Janmali |] | |
| 8. | Smt. Pushpa Jaggannath Janmali |] | |
| 9. | Shri. Devendra Jaggannath Janmali |] | |
| 10. | Shri. Anil Laxman Janmali |] | |
| 11. | Shri. Dinkar Laxman Janmali |] | |
| | (Promoters and the landowners of the Project) | | |
| | At Post Sahdeo Bunglow, Survey No. 450,] | | |
| | Janmali Mala Takli Road, Nashik – 422 011.] | | |

Mr. Akshay R. Kapadia, Advocate for Appellants.
Mr. Abhishek Pungliya, Advocate for Respondent Nos.1 to 4.
None for Respondent Nos.5 to 11.

CORAM : SHRI. SHRIRAM R. JAGTAP, MEMBER (J)**& DR. K. SHIVAJI, MEMBER (A)****DATE : 07th NOVEMBER 2023***(THROUGH VIDEO CONFERENCE)*


JUDGEMENT**[PER: DR. K. SHIVAJI, MEMBER (A)]**

Present appeal has been preferred under Section 44 of The Maharashtra Real Estate (Regulation and Development) Act, 2016 (in short "the Act") against the order dated 24th August 2021 passed by learned Chairperson, Maharashtra Real Estate Regulatory Authority, (in short "MahaRERA") seeking reliefs *inter alia* to quash and set aside the relaxation given to the Respondent Promoter to refund the amounts paid by Appellants after obtaining the Occupancy Certificate of the subject project in Complaint No. CC001 000000000102.

2. Appellants are flat purchasers and Complainants before MahaRERA. Respondent No.1 is a Private Limited Company and Developer Promoter, who is developing a project at Anusaya Nagar, Tapovan Road, Dwarka , Nashik (in short 'said project'). Respondent No.1 is represented by its Directors @ Respondent Nos. 2 to 4, Respondent Nos. 5 to 11 are stated to be landowners of the project. For convenience, appellants, and respondent nos.1 to 4 will be addressed hereinafter as Complainants and Promoters respectively.

3. Brief backgrounds giving rise to the appeal: -

a. **Complainant's case:** Complainants booked flat no. 702 in building no. C-1 in Promoter's said project for total consideration of ₹ 43,13,200/-. Complainants claim to have made cumulative payments of ₹ 22,58,178/-, stated to be after taking loan of ₹ 30 lakhs from HDFC bank. Agreement for Sale was also executed on 16th May 2016, wherein, clause 4 and 5 of the agreement stipulate that Promoter will deliver possession of the said flat on or before 31st December 2017 subject to further reasonable



extension of time based on certain force majeure events as set out in the agreement.

- b. On account of alleged failure on the part of Promoter to deliver possession of the booked flat within the agreed timeline, captioned complaint came to be filed before MahaRERA in 2019 seeking direction to Promoters *inter alia* to refund the entire paid amounts along with interest by withdrawing from the project including for certain penalty and costs.
- c. Upon hearing the parties, learned Chairperson, MahaRERA disposed of the captioned complaint on 29th May 2019 by freezing the list of allottees as on that date and directed promoters *inter alia* to handover list of Allottees of the said project to the complainants within thirty (30) days to enable allottees to take an informed decision pertaining to way forward in the said project under Section 7/8 of the Act and as per MahaRERA order No.8/2019 dated 29th March 2019 besides providing liberty to promoters to seek approvals of Association of Allottees for order under Section 7(3) of this Act as per MahaRERA order No. 7/2019 dated 08th February 2019 on revocation of registration of project for reviving and completing the said project.
- d. Aggrieved by this order of MahaRERA, complainants filed appeal in this Tribunal, which was disposed of by consent of both the parties on 11th January 2021 by setting aside the impugned order dated 29th May 2019 passed by MahaRERA and remanded the complaint for fresh hearing by keeping the points and objections open to be decided on merits after giving opportunities of hearing to both sides of the parties.
- e. Upon hearing the parties, learned Chairperson, MahaRERA, passed the impugned order dated 24th August 2021 by allowing complainants to withdraw from the said project and permitting complainants, as being entitled for refund from promoters of the entire paid amounts by



complainants with interest from 01st January 2018 at prescribed rate under the Act/ Rules with further directions/observations *inter alia* that "... *in view of the mitigating circumstances beyond the control of the Respondent and also to ensure that the said Project is not jeopardised due to the outflow of finances and is completed keeping in mind the interest of the other buyers of the said Project at large, it is directed that the amounts of refund and the interest thereupon shall be paid by the Respondent to the Complainant upon the Respondent obtaining occupation certificate (OC) for the said Project. However, in case the Respondent so desires to pay the same before obtaining OC, the period of interest calculation shall be from 01.01.2018 up to date of refund of the entire amount together with interest as aforesaid.*"

- f. Aggrieved by the order, Complainants have preferred the instant appeal seeking various reliefs including *inter alia* to quash and set aside the relaxation given to respondents in the impugned order dated 24th August 2021 to refund the paid amounts after obtaining the occupancy certificate of the project as elaborated herein supra.
4. Heard learned counsel for parties.
5. Complainants sought the aforesaid reliefs by submitting that,
 - a. Complainants have made all the timely payments as per the payment schedules. On account of delay in project construction and resultant delay in delivery of possession of booked flat, complainants sent legal notice to respondent no.1 on 04th September 2019 pointing out certain illegalities and irregularities committed by the promoters and considering the delay in delivery of possession on the part of the promoters, captioned complaint came to be filed seeking withdrawal from the project and for refund of the paid amounts together with interest as enunciated herein supra. However, MahaRERA has allowed the captioned complaint for refund as elaborated

above by permitting complainants to withdraw from the project and directed promoters to refund the entire paid amounts to appellants with further options to respondents for refund upon the receipt of occupation certificate.

- b. However, this option given to respondents for refund after the receipt of the occupation certificate is not based on any submissions/ pleadings by the respondents before MahaRERA. As such, these observations have been made in the impugned order despite the respondents have failed to file written statements/ reply to the captioned complaint before MahaRERA. This is evident from the observations made in para 5 of the impugned order which shows as "*.....5. The Respondent has not filed any reply/ submissions in both the complaints in spite of time given to them till 30.03.2021.*" Therefore, such conditional refund granted is violation of principles of natural justice.
- c. MahaRERA ought to have appreciated the status of the progress of the project and the further time needed for likely completion of project. Factually, the project is still at very initial stage and looking at its construction pace, there is no scope that the project is going to be completed within a time frame. As such, project had got latest extension up to December 2022 and in such circumstances, promoters will continue to enjoy the hard-earned paid amounts of the complainants besides that this legitimately entitled refund of amounts to complainants, and the paid amounts will continue to be in unsafe hands.
- d. MahaRERA ought to have appreciated that time space provided to promoters for refund of the paid amounts is without any proper justification nor with any supporting reasons.



- e. Even otherwise, the impugned order does not meet the ends of justice for the complainants, who have been the victims of reckless and irresponsible approach of promoters.
 - f. Considering above, learned counsel for complainants allottees urged that the relief prayed in appeal be allowed by quashing and setting aside the relaxation given to promoters for the refund of the paid amounts after obtaining occupancy certificate of the project.
- 6.** Per Contra learned counsel for Promoters refuted the contentions of appellants by submitting as hereunder: -
- a. Appellants have challenged only the aspect of the impugned order to refund with interest after obtaining the occupancy certificate of the project because, the project is facing mitigating circumstances beyond the control of the promoters.
 - b. However, no interference is warranted in the impugned order as MahaRERA has correctly and rightly held that these mitigating circumstances are beyond the control of promoters, which have caused delay in completion of the project.
 - c. As such, the project has been severely delayed due to factors beyond of the promoters including due to the delay in grant of environmental clearance, due to MPCB's stop work notice/ show cause notice dated 09th April 2013, even though the project does not need environment clearance, which has caused delay of more than 2 years and 7 months.
 - d. Promoters have not violated the terms of the agreement including the clause 5 of the agreement, which specifically permits extension of the possession date on account of the delay in passing of orders by public bodies/ government and due to factors beyond the control of the promoters, such as introduction of GST, demonetisation, stop work notice issued by the MPCB/ delay in environment clearance etc. Environment

clearance was applied way back on 08th August 2012 itself even before the issuance of the commencement certificate and much before the said booking of the subject flat in January 2015. It is the Environment Department and MPCB, who were responsible for the delay in project completion. Such delays of more than 31 months could not have been contemplated earlier. Hence, promoters are not entitled to be charged interest under Section 18 of the Act by allottees for the said delay of 37 months on account of above said reasons beyond the control of promoters.

- e. Promoters have been making genuine efforts for timely project completion. Therefore, under the scheme of RERA, promoters' interests are also needed to be safeguarded, if not, then the very purpose of the development of the real estate sector will be defeated.
- f. Complainants themselves changed their reliefs for withdrawal and refund from earlier claim to continue in the project.
- g. Complainants were aware of the status of the project more particularly when they visited the project site in December 2014.
- h. Possession date mentioned in the agreement is only a tentative possession date. Moreover, promoters are entitled for reasonable extension of time in handing over the possession of the subject flat more particularly the delay on account of the factors beyond the control of the promoters as mentioned in clause 5 of the agreement, which are force majeure events. More specifically because such factors are very well known to complainants. Since the complainants are fully aware of the condition no. 37 of the commencement certificate and the stop work notice was illegal because the environment clearance was not required for the said project, complainants have no right to object the relaxation granted to promoters to refund with interest after obtaining occupation certificate.



- i. Out of 104 Allottees in the project, only 3 allottees including the present appellants had initiated such proceedings under the Act. Whereas the project is progressing and the possibility of completing the project in near future is a realistic possibility.
 - j. Complainants have failed to pay instalments due on completion of 10th slab onwards despite being informed of the same and therefore, have no right to initiate proceedings under the Act against the promoters.
 - k. Promoters have acted in bonafide manner and taken every possible step within their control to avoid or to reduce delay.
7. From the rival pleadings, submissions and documents placed on record by the parties, following points arise for our determination in this appeal and we have recorded our findings against each of them for the reasons to follow: -

	POINTS	FINDINGS
1.	Whether impugned order calls for interference in this appeal?	In the affirmative.
2.	What order?	As per final order.

REASONS

Point. 1 and 2: Reliefs sought.

8. These points are interrelated, so have been considered together. It is not in dispute that complainants have booked the subject flat in the Promoters said project in January 2015 and agreement for sale has also been executed and registered on 16th May 2016. The project under reference is duly registered before MahaRERA under the Act of 2016. According to the agreement for sale, promoters have agreed to deliver the possession of the subject flat on or before 31st December 2017 subject to reasonable



extension as set out in the agreement. Therefore, appellants and respondent nos. 1 to 4 herein are allottees and promoters respectively in terms of the provisions of the Act 2016.

9. Reliefs status under Section 18: Admittedly, promoters have agreed to deliver possession of the subject flats by 31st December 2017. But indisputably, Promoters have failed to hand over possession of the subject flat on or before 31st December 2017 as stipulated in the agreement and thereby, promoters have failed to fulfill its contractual commitments.

10. Whereas, Section 18 of The Maharashtra Real Estate (Regulation and Development) Act, 2016 (the Act), stipulates that in case of failure/delay in delivery of possession and if, allottees wish to withdraw from the project and demand refund, then, promoter shall be liable to return the amount received by him with interest and/or compensation to the allottees. Relevant abstract is being reproduced for ready reference.

"18. Return of amount and compensation. — (1) *If the promoter fails to complete or is unable to give possession of an apartment, plot or building, —*

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

11. In the case on hand, promoters have failed to deliver possession as agreed under the agreement and Complainants have sought to withdraw from the project besides prayers for refund *inter alia* other reliefs mentioned in the complaint.

- 12.** Accordingly, Complainants are entitled to get refund of money paid by them together with interest thereon at prescribed rate under Section 18 of the Act. But, MahaRERA has directed in the impugned order that the amounts of refund and the interest thereupon shall be refunded by Respondent after the obtaining occupation certificate (OC) for the said Project.
- 13.** Learned counsel for promoters further contended that delay in project completion and resultant delay in delivery of possession of the booked flat was on account of the objections of environment department/MPCB, stop work notice / orders, demonetization policy of Government etc., and the said delay is on the part of the public bodies / government authorities etc. According to the learned counsel for the promoters, these delays are beyond the control of the promoters and cannot be attributed as deficiency of service on the part of the promoters. Therefore, promoters cannot be held liable for these delays. According to promoters, MahaRERA has rightly and correctly held that refund of the paid amounts together with interest need to be made only upon the receipt of occupation certificate keeping in view of these mitigating circumstances being beyond the control of promoters, which have caused delay in completion of the project by more than 2 years and 7 months. Learned counsel further contended that Complainants are well aware of these mitigating circumstances. Thus, no interference is warranted in the impugned order in this appeal and MahaRERA has rightly decided to refund the paid amounts together with interest to Complainants after obtaining the occupancy certificate of the project to avoid jeopardising financial conditions of the project for the benefit of the other allottees. It is also because only 3 out of 104 allottees in this project including the present appellants have initiated such proceedings under the Act. Promoters further contended that project is progressing and the possibility of completing the project in near future is a realistic possibility. Besides, promoters have not



violated any terms of the agreement including its clause 5, which specifically permits extension of the possession date on account of such mitigating circumstances. Further submitted that possession date mentioned in the agreement is only a tentative date and promoters have acted in bona fide manner by taking all possible steps within their control to avoid delay or to reduce delay.

14. However, these contentions of the promoters are legally not tenable on account of the followings; -

- a. The Hon'ble Supreme Court in para nos. 25 and 78 of its judgment in the case of **M/s. Newtech Promoters and Developers Pvt. Ltd vs. State of Uttar Pradesh & Ors. [2021 SCC Online 1044] dated 11th November 2021** has clarified that *if the Promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement, then, Allottee's right under the Act to seek refund/ claim interest for delay is unconditional & absolute, regardless of unforeseen events or stay orders of the Court/Tribunal.* Relevant abstract is being reproduced below for ready reference.

*"25. The unqualified right of the Allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. **It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the Allottee,** if the Promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement **regardless of unforeseen events or stay orders of the Court/Tribunal,** which is in either way not attributable to the Allottee/home buyer, the Promoter is under an **obligation to refund the amount on demand with interest** at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the Allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."*

*The proviso to Section 18(1) contemplates a situation where the Allottee does not intend to withdraw from the Project. In that case, he is entitled to and must be paid interest for every month of delay till the handing over of the possession. **It is up to the Allottee to proceed either under Section 18(1) or under proviso to Section 18(1).** The case of Himanshu Giri came under the latter category. The RERA Act thus definitely provides a remedy to an Allottee who wishes to withdraw from the Project or claim return on his investment."*

- b. In view of above, it has been held that the rights of Allottees under Section 18 of the Act are unconditional and absolute, regardless of unforeseen events including any other reasons even the factors beyond control of the Promoters and "**It is up to the Allottees to proceed either under Section 18(1) or under proviso to Section 18(1).**"
- c. The Hon'ble Bombay High Court, in the case of (Promoter company itself) **Neelkamal Realtors Suburban Pvt. Ltd. & Anr. Vs. Union of India & Ors. [(2017) SCC Online Bom 9302]** in para 119, further held that "*While the proposal is submitted, the Promoter is supposed to be conscious of the consequences of getting the project registered under RERA. Having sufficient experience in the open market, the Promoter is expected to have a fair assessment of the time required for completing the project....*".
Accordingly, it is evident that Promoters are inherently better equipped about market related information and is structurally at advantageous position in as much as the information about the said project updates are concerned.
- d. Timely completion of the project and consequent timely delivery of possession of the subject flat is the contractual commitment of the promoters and therefore, are not attributable to allottees. Therefore, promoters continue to be legally liable to refund with interest at prescribed rate for the delay in delivery of the procession without delay.

- e. Provisions of the Act and law will prevail over the terms and conditions of the agreement for sale. Therefore, the terms and conditions mentioned in the agreement will not prevail and will not supersede over the provisions of law, which clearly provides for absolute unqualified rights to allottees for complete refund without any conditions attached there with, as has already been determined herein above in the instant case. Accordingly, option provided to promoters in the impugned order for refund with interest after the receipt of the occupation certificate is legally not sustainable in the eyes of law.
- f. **Party in breach, cannot take advantage of its own wrong:** It is pertinent to note that promoters have violated the statutory provisions of Sections 18 of the Act by not delivering possession of the subject flat within the agreed timelines as per the agreement. The said delay being attributable to Promoters, they cannot deny the accrued rights under Section 18 of the Act to Allottees on the very same ground for which, Promoters themselves are responsible for, especially because the rights so accrued to allottees under Section 18 are unconditional, unqualified, and absolute. Promoters themselves cannot take advantage of their own deficiencies/ non-performances and despite being party in breach, more particularly in view of the judgement of The Hon'ble Supreme Court in the case of ***Kusheshwar Prasad Singh Vs. State of Bihar and Ors. [Supreme Court] Civil Appeal No. 7351 of 2000***. *Where in, it has been held that - "It is settled principle of law that a man cannot be permitted to take undue and unfair advantage of his own wrong to gain favourable interpretation of law. It is sound principle that he, who prevents a thing from being done shall not avail himself of the non-performance he has occasioned. To put it differently, "a wrongdoer ought not to be permitted to make a profit out of his own wrong.*



- g. The Hon'ble Supreme Court has also Clarified para 25 of its judgment in the case of **M/s. Newtech Promoters and Developers Pvt. Ltd (supra)** that "*It appears that the legislature has consciously provided this right of refund **on demand** as an unconditional absolute right to the Allottee*".
- h. Careful perusal of the provisions of the section 18 of the Act further reveals that; -promoter "*.....he shall be liable **on demand** to the allottees, in case the allottee wishes to withdraw from the project.....*"
- i. Accordingly, Promoters have no option but to refund the paid amounts **immediately on demand** made by allottees and there are no such discretions / options, nor any choice conferred to promoters to make any delay at all for effecting such refunds to allottees together with interest ". Thus, rights so accrued to complainants under section 18 of the Act are not only unqualified absolute statutory rights, which are required to be complied forthwith on demands of allottees without any discretion conferred upon promoters. Moreover, promoters are duty bound and it is incumbent upon promoters to comply it, which cannot be delayed at all. As such, Section 18 of the Act conferred upon the discretion to allottees for making such demands and no such discretion has been given to promoters.
- j. It is pertinent to note that in the instant case, even now the project is fraught with all uncertainties resultantly delivery of possession is still uncertain. Moreover, the promoters continue to enjoy the paid amounts for their own commercial gains by utilising these amounts. In this background, it will be unfair for the allottees to continue to wait for uncertain times for refund of their own paid amounts, which is stated to have been borrowed by taking loan and continue to incur cost by paying interest to bank for that.
- k. Moreover, it is distressing to note that, there is undue and inordinate delay in delivery of the possession of the subject flats despite payment of substantial amounts by complainants after taking loan. As a result of this,



complainants continue to be deprived of their legitimate entitlements for the possession of the flat in time.

- l. In the Judgment of the Hon'ble Supreme Court of India in the case of *M/s. Newtech Promoters and Developers Pvt. Ltd. versus State of U.P & Ors. (supra)*, it has been observed with regard to some of the relevant statement of objects and reasons as mentioned in para 11 are that "11. Some of the relevant Statement of Objects and Reasons are extracted as under: "

4...(f) the functions of the Authority shall, inter alia, include –
(iii) to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under the proposed legislation.

- m. It is also important to note that the project has been registered under the Real Estate (Regulation & Development) Act, 2016, which provides several welfare provisions to protect interests of consumers including for greater accountability towards consumers to inject greater efficiency, transparency and accountability as contemplated in the statement of Objects and Reasons of the Act. Regulation 39 of Maharashtra Real Estate Regulatory Authority (General) Regulation, 2017 further stipulates inherent powers of the Authority. It reads as under; -

"Nothing in the Regulations shall be deemed to limit or otherwise affect the inherent power of the Authority to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Authority."

Similarly, Regulation 25 of Maharashtra Real Estate Appellate Tribunal, 2019 speaks about saving of inherent powers of the Tribunal; -

"25(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Tribunal."

It means the Regulatory Authority as well as the Appellate Tribunal have inherent powers under the Regulations framed under RERA Act, 2016 to pass appropriate Orders, which are necessary to meet the ends of justice.

- n. In view of above, the refunds of the paid amount are already crystallised and determined in the impugned order and the order has not been challenged by the promoters. Thus, the refund together with interest must be paid by promoters forthwith as has already been demanded by the allottees.
15. In view of the foregoing and upon considerations of findings herein above and after considering overall facts, circumstances and context of the case, diligent analysis of the material on record and more particularly in view of deficiencies and non-compliances on the part of promoters, besides their contractual and statutory breaches on the part of the promoters under Section 18 of the Act, impugned order dated 24th August 2021 passed by MahaRERA calls for interference in this appeal as determined herein above. In these premises, complainants are entitled for refund of the paid amounts forthwith together with interest at prescribed rate from the date of receipt of payments forthwith without any conditions including without any options/choice/ whatsoever to promoters and refund need to be effected without any condition of receipt of occupation certificate etc. Therefore, the prayers of the complainants to quash/ set aside the impugned order to the extent of providing "*option to promoters for refund of the paid amounts together with interest after the receipt of occupation certificate*" is permissible under the provisions of the Act. Thus, the impugned order suffers from infirmities to this extent and warrants interference in this appeal. Accordingly, we answer point nos. 1 and 2 and proceed to pass order as follows; -

ORDER

- a) Appeal is partly allowed.
- b) Impugned order dated 24th August 2021 passed in Complaint No. CC 0060000000 00102 is modified as hereunder.



- i. Following directions / observations provided in para 13 [final order] in the operative part of the impugned order dated 24th August 2021 providing options to promoters for refund of the paid amounts to allottees are quashed, set aside and accordingly stands deleted; -

"in view of the mitigating circumstances beyond the control of the Respondent and also to ensure that the said Project is not jeopardised due to the outflow of finances and is completed keeping in mind the interest of the other buyers of the said Project at large, it is directed that the amounts of refund and the interest thereupon shall be paid by the Respondent to the Complainant upon the Respondent obtaining occupation certificate (OC) for the said Project. However, in case the Respondent so desires to pay the same before obtaining OC, the period of interest calculation shall be from 01.01.2018 up to date of refund of the entire amount together with interest as aforesaid."

- ii. Respondent Promoter is directed to refund the entire paid amounts within 23 days to Appellants allottees together with interest from the date of receipt of the payments at the rate of highest marginal cost of lending rate of State Bank of India plus 2%, failing which, Promoter will pay interest at this rate on the total amount due and outstanding as on 30th November 2023 till its complete refund/ realisation of these outstanding amounts along with interest.
- c) No order as to costs.
- d) In view of the provisions of Section 44(4) of the Act of 2016, a copy of this order shall be sent to the parties and to MahaRERA.


(Dr. K. SHIVAJI)


(SHRIRAM. R. JAGTAP, J.)