

[Print This Page](#)**Maharashtra RERA directs Acme Housing to pay interest on 21 months of delay**

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has directed developer Acme Housing India Pvt. Ltd to pay interest for delayed possession for 21 months to home buyers of Alpinia project in Thane under Section 18 of the Real Estate (Regulation and Development) Act RERA).

The order by MahaRERA member Vijay Satbir Singh came on a complaint by homebuyers Aniket and Rajashree Alashe who booked a flat in the project in December 2014 with the promise of possession by December 31, 2017. They paid a sum of Rs 1.11 crore, but the developer failed to deliver possession as per the registered agreement for sale.

Advocate K.R. Shekhawat, appearing for Acme Housing India Pvt. Ltd, strongly opposed the plea for interest on delayed possession arguing that the agreement clause 9.2 allowed the home buyers the option to terminate the agreement if possession was not delivered, but they have not terminated the agreement. He also said the clause provides for extension of the possession deadline if there are *force majeure* conditions and certain reasons beyond their control.

Stating that the Bombay High Court had restrained Thane Municipal Corporation from granting construction permissions and Occupancy Certificate (OC) for projects on Ghodbunder Road in connection with a PIL (public interest litigation) on shortage of water supply, he said the [Alpinia project](#) was in the vicinity of Ghodbunder Road and was also impacted by this stay order.

Shekhawat also argued that demonetization, and implementation of RERA and GST had created a cash crunch, and daily wage labourers could not be engaged for construction work due to the scarcity of cash. He also cited shortage of sand, cement and ready mixture concrete in 2013-14, and the sand mining ban as reasons for delay in the completion of the project.

Advocate Shekhawat also blamed the Thane Municipal Corporation for granting OC on March 3, 2020, four months after application. Lastly, he said the possession was offered to the home buyers after obtaining OC, but they instead approached MahaRERA and hence their complaint was not maintainable after the grant of OC.

Advocate Tanuj Lodha, appearing for the homebuyers, filed a rejoinder strongly denying the claims of the developer. He argued that the developer had accepted substantial amounts from the buyers and could not make the excuse of *force majeure*. He argued that the developer had violated the terms of the agreement for sale, and the Maharashtra Real Estate Appellate Tribunal as well as Bombay High Court had in their orders clearly held that the promoter is liable to pay interest for delayed possession under Section 18 of RERA if the agreement terms were violated.

MahaRERA member Vijay Satbir Singh observed that the agreement for sale mentioned an extension or grace period of six months till June 30, 2018, and the developer had failed to give possession by that date. Rejecting the arguments that demonetization, RERA, GST, sand mining ban, etc., had delayed the project, he said as a promoter, the developer had sound knowledge of the real estate sector, and market risks when he launched the project. He said the developer had made no attempt to inform the complainants about the constraints and explain the delay.

He held that Maharashtra Ownership of Flats Act (MOFA) allowed maximum extension of six months or till June 30, 2018 to the promoter. After RERA came into effect from May 1, 2017, the promoter is liable to pay interest for the delay in possession as per Section 18 provisions.

Singh also observed that the complainants filed the case on June 20, 2020 after the developer had obtained OC on March 3, 2020 and offered possession of the flat to them. "In this regard, the MahaRERA feels that as per the provisions of section 19(10) of the RERA, the allottees are liable to take possession of the flat within a period of 2 months from the date of occupancy certificate. However, the complainant has violated the provision of section 19(10) of the RERA," he observed, denying further interest after March 3, 2020. The order said the developer will have to pay interest at 9.3 per cent for every month from July 1, 2018 to March 3, 2020.