

**BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI**

Hearing held through Hybrid mode

1. COMPLAINT NO. CC006000000580859

CHANDRASHEK HAR SUBHASH CHALWADE, ...COMPLAINANT/S
MINAL CHANDRASHEKHAR CHALWADE
a/w

2. COMPLAINT NO. CC006000000580867

CHANDRASHEKHAR SUBHASH CHALWADE,
MINAL CHANDRASHEKHAR CHALWADE ...COMPLAINANT/S

a/w

3. COMPLAINT NO. CC12400900

DEVEN BHAGWAN PAWAR ...COMPLAINANT/S

a/w

4. COMPLAINT NO. CC12401060

NAVIN JAYANT TAMASKAR, ...COMPLAINANT
SMT. SUVARNA JAYANT TAMASKAR,
NAWELI JAYANT TAMASKAR

a/w

5. COMPLAINT NO. CC12500906

KAINAZ KERSI KUTAR, ...COMPLAINANT
NIKHIL PTENDULKAR

a/w

6. COMPLAINT NO. CC12501134

MUKHTAR DURRANI TAJAMUL SAYED KADRI ...COMPLAINANT

a/w

7. COMPLAINT NO. CC12501824

IMRAN ABDUL HAMID SHAIKH, ...COMPLAINANT
NAZMA IMRAN SHAIKH

VS

AM CONSTRUCTIONS,
MOHAMMAD ARIF SHAIKH,
LOTUS BUILDSPACE LLP

... RESPONDENT/S

MAHARERA PROJECT REGISTRATION NO. P51900010447

Order

December 18th, 2025

(Last Date of hearing – 09.09.2025 matters were reserved for order from 19.09.2025)

Coram: Manoj Saunik, Chairperson, MahaRERA

Advocate Monil Mandavia & parties present-in-person present for complainant at sr. no. 1 and 2

Advocate Mukund R. Jalgaonkar for complainant at sr.no 3, 4 and 7.

Advocate Moksh Jain for complainant at sr.no 5

Complainant at sr.no 6 is present in person.

Advocate present for respondents at sr. nos. 1 to 7

1. The complainants at sr. nos. 1 to 7 are home buyers / allottees within the meaning of section 2(d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the “Act”) of Real Estate Regulatory Authority (hereinafter referred to as the “RERA”) and the respondent i.e. AM Constructions is the promoter/ developer within the meaning of section 2(zk) of the Act. The respondent is registered as the promoter of the project namely “**BRAND ONE WADALA - A WING**” under section 5 of the Act bearing **MAHARERA Project Registration No. P51900010447** (hereinafter referred to as the “Project”).
2. As per the MahaRERA project registration webpage, the proposed date of completion was 31.08.2021 and the revised proposed date of completion was 28.08.2023 and further the extended date of completion is mentioned as 18.08.2026. It is further observed that vide order dated 19.03.2025, Director (Compliances), MahaRERA has kept the project in abeyance for non-compliance of QPRs. The order dated 19.03.2025 is reproduced as under for ease of reference:
 - a) “The project registration granted to the real estate project Brand one wadala - A Wing under project registration No. P51900010447 shall be kept in abeyance by IT manager, MahaRERA.
 - b) Promoter, AM Constructions, shall not advertise, market, book, sell or offer for sale any units in the real estate project Brand one wadala - A Wing.

- c) *The bank holding the project bank account is directed to freeze the said bank account until further notice from MahaRERA.*
- d) *The concerned Joint Registrar of Assurances having jurisdiction to register Agreement for Sale / Sale Deed is directed not to register any Agreement for Sale / Sale Deed in respect of the units in the real estate project Brand one Wadala - A Wing until further notice from MahaRERA.*
- e) *Penalty of Rs. 50,000/- is imposed upon promoter AM Constructions under Section 61 of the Act for contravention of provisions of Section 11(1) of the Act and under section 63 of the Act for violation/ contravention of the directions issued by the Authority under MahaRERA Order no. 33/2022 dated 05.07.2022."*

3. The complainants at sr. nos. 1 to 7 are seeking the following reliefs:

Sr. No.	Complaint No.	Reliefs sought
1.	CC006000000580859	<ol style="list-style-type: none"> a. <i>That the Respondents may kindly be directed to handover the possession of the Flat bearing no A/203, along with the Occupancy Certificate under Section 11(4) (b) Real Estate (Regulation and Development) Act 2016 from the concerned authority to the Complainant without the Complainant being required to pay any further amounts other than the agreed consideration.</i> b. <i>That the Respondents may kindly be directed to pay the interest for delay in handing over possession of the flat as per Section 18 (1) Proviso of Real Estate (Regulation and Development) Act 2016 at agreed rate of interest in the agreement for sale Clause no.3 (Interest rate as mentioned under Rule 18 of the Rera rules) from the date of first payment made till the date of actual handing over the possession including the compensation as this Hon'ble Authority may deem fit;</i> c. <i>That this Hon'ble authority may kindly direct the Respondent to provide compensation in terms of Agreement of Sale or as the authority may deem fit and proper.</i> d. <i>Pending the hearing and final disposal of this complaint, no third-party rights, charge, encumbrance be created against the said flat.</i> e. <i>That the Respondents may kindly be directed for quarterly update the project status in accordance with the provision of Section 11(1)(e) of Real Estate (Regulation and Development) Act 2016 and Rule 20 of Maharashtra Real Estate (Regulation and Development) Rules, 2017.</i>

		<p>f. That heavy penalties be levied upon the Respondents for violation of various provisions of the Real Estate (Regulation and Development) Act 2016.</p> <p>g. That this Hon'ble authority pleased to pass any order which is just and equitable in the interest of the justice which may be fit and proper.</p> <p>h. Cost of litigation</p>
2.	CC006000000580867	<p>a. That the Respondents may kindly be directed to handover the possession of the Flat bearing no A/202, along with the Occupancy Certificate under Section 11(4) (b) Real Estate (Regulation and Development) Act 2016 from the concerned authority to the Complainant without the Complainant being required to pay any further amounts other than the agreed consideration.</p> <p>b. That the Respondents may kindly be directed to pay the interest for delay in handing over possession of the flat as per Section 18 (1) Proviso of Real Estate (Regulation and Development) Act 2016 at agreed rate of interest in the agreement for sale Clause no.3 (Interest rate as mentioned under Rule 18 of the Rera rules) from the date of first payment made till the date of actual handing over the possession including the compensation as this Hon'ble Authority may deem fit;</p> <p>c. That this Hon'ble authority may kindly direct the Respondent to provide compensation in terms of Agreement of Sale or as the authority may deem fit and proper.</p> <p>d. Pending the hearing and final disposal of this complaint, no third-party rights, charge, encumbrance be created against the said flat.</p> <p>e. That the Respondents may kindly be directed for quarterly update the project status in accordance with the provision of Section 11(1)(e) of Real Estate (Regulation and Development) Act 2016 and Rule 20 of Maharashtra Real Estate (Regulation and Development) Rules, 2017.</p> <p>f. That heavy penalties be levied upon the Respondents for violation of various provisions of the Real Estate (Regulation and Development) Act 2016.</p> <p>g. That this Hon'ble authority pleased to pass any order which is just and equitable in the interest of the justice which may be fit and proper.</p> <p>h. Cost of litigation.</p>
3	CC12400900	<p>a. This Hon'ble Authority be pleased to direct the Respondents jointly or severally to handover the possession</p>

		<p>of the Flats No. A-1802 and A-1803 in the said project to the Complainant after completing the construction of the said project and obtaining Occupation Certificate from the Competent Authority, at the earliest.</p> <p>b. This Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay interest in accordance with law, on account of delay in handing over the possession of the Flat No. A-1802 and A-1803 in the said project, on the amounts of Rs. 1,30,71,467/- paid by the Complainant towards consideration of the said flats including the stamp duty and registration charges from 01.09.2021 till handing over of the possession of the said flats to the Complainant.</p> <p>c. This Hon'ble Authority be pleased to direct the Respondents jointly or severally to adjust the amount of interest granted in the matter by the Hon'ble Authority and as is mentioned in prayer (b) above, against any balance payment to be made by the Complainant to the Respondents towards balance consideration amount of the said flats.</p> <p>d. This Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay an amount of Rs. 10,00,000/- as a hardship compensation towards the harassment and mental agony caused to the Complainant.</p> <p>e. This Hon'ble Authority be pleased to direct the Respondents jointly or severally not to create any third-party rights or interest in the flat No. A-1802 and A-1803 allotted to the Complainant as per both agreement for sale.</p> <p>f. This Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay the Complainant litigation costs in the matter.</p> <p>g. Any such other and further reliefs as deemed fit in the facts and circumstances by this Hon'ble Authority.</p>
4	CC12401060	<p>(a) This Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay an amount of Rs. 12,56,632/- along with interest from 28.08.2017 till the date of realization by the Complainants from the Respondents and this Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay an amount of Rs. 28,55,981/- along with interest from 14.07.2018 till the date of realization by the Complainants from the Respondents.</p> <p>(b) This Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay an amount of Rs. 5,00,000/- as a hardship compensation towards the harassment and mental agony caused to the Complainants.</p>

		<p>(c) This Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay the Complainants a cost towards the litigation in the matter.</p> <p>(d) Any such other and further reliefs as deemed fit in the facts and circumstances by this Hon'ble Authority.</p>
5	CC12500906	<p>a. The Promoter be directed to pay a total payment of Rs. 24,87,100 /- (Rupees Twenty-four Lakhs Eighty-Seven Thousand and One Hundred Only) along with interest at the rate of 18% per annum i.e. the amount given as the part payment of flat.</p> <p>b. The Promoter be directed to pay compensation for the delay and violation of section 13 of Real Estate (Regulation and Development) Act, 2016</p> <p>c. Penalty be imposed on the Promoter for non - completion of project, in the interest of justice.</p>
6	CC12501134	Refund of amount with interest
7	CC12501824	<p>(a) This Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay an amount of Rs. 81,00,000/- along with interest as prescribed under the relevant provisions of the Real Estate (Regulation and Development) Act, 2016 with the Maharashtra Rules & Regulation made thereunder from the respective dates of payment received by the Respondents till the date of actual realization by the Complainants from the Respondents.</p> <p>(b) this Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay an amount of Rs. 20,00,000/- as a hardship compensation towards the harassment and mental agony caused to the Complainants due to delay caused by the Respondents to do the needful as promised in the matter.</p> <p>(c) this Hon'ble Authority be pleased to direct the Respondents jointly or severally to pay the Complainants costs towards the litigation in the matter.</p> <p>(d) Any such other and further reliefs as deemed fit in the facts and circumstances of the matter may kindly be granted by this Hon'ble Authority.</p>

4. The captioned complaints at sr. nos. 1 to 7 were heard on 09.09.2025 wherein the following Roznama was recorded by this Authority:(listed at sr.nos. 3 to 9)

Sr. No.	Complaint No.	Roznama Recorded
1.	CC006000000580859	1. The learned advocate for the respondent submits that in the captioned matters, several complainants have altered the reliefs sought. In such circumstances,
2.	CC006000000580867	
3.	CC12400900	

4.	CC12401060	<i>the respondent seeks time to file written submissions/reply.</i> 2. Heard both parties at length. Both parties are at liberty to file written submissions, if any, by 18.09.2025. Matters are reserved for order from 19.09.2025.
5.	CC12500906	
6.	CC12501134	
7.	CC12501824	

5. The brief facts in the complaints are as follows:

SR. NO.	COMPLAINT NOS. / DATE OF FILING	FLAT NO.	DATE OF AFS ¹	POSSESION AS PER AFS	TOTAL CONSIDERATION (INR)	RELIEFS SOUGHT
1.	CC006000000580859 21.06.2024	A-203 2 nd Floor (As per AFS)	28.11.2018	31.08.2021	78,76,250/- (As per AFS)	Possession, Interest, Compensation
2.	CC006000000580867 21.06.2024	A-202 2 nd Floor (As per AFS)	27.07.2018	31.08.2021	93,00,000/- (As per AFS)	Possession, Interest, Compensation
3.	CC12400900 26.11.2024	A-1802 A-1803 (As per AFS)	17.12.2018 10.06.2019	31.08.2021 31.08.2021	95,00,000/- (As per AFS)	Refund, Interest and compensation
4.	CC12401060 06.12.2024	A-804 A-704 (As per receipts)	14.07.2018 (Date of receipts)	Not provided	1,26,93,252/- (As per submissions)	Refund, Interest and compensation
5.	CC12500906 15.03.2025	A-1305 (As per AFS)	13.06.2019	31.08.2021	1,20,00,000/- (As per submissions)	Refund, Interest and compensation
6.	CC12501134 05.04.2025	A-1601 (As per Allotment letter)	03.11.2016 (Date of allotment letter)	36 months from the date of final commencement certificate	78,50,000/- (As per Allotment letter)	Refund, Interest and compensation
7.	CC12501824 03.06.2025	A-205 (As per Allotment letter)	26.12.2017 (Date of allotment letter)	31.08.2021 (As per Allotment letter)	88,00,000/- (As per Allotment letter)	Refund, Interest and compensation

6. The common submissions of the complainants are as follows:

- i. The brief submissions of the complainants at sr. nos. 1 and 2 are as follows:
 - a) That the complainants at sr. nos. 1 and 2 have purchased their respective flats in the respondent's project and have executed duly registered Agreements for Sale

¹ AFS-Agreement for Sale.

- b) That the complainants have issued multiple letters to the respondent seeking possession of the flat.
- c) That there has been a delay in handing over possession of the flats to the complainants, and the complainants at sr. nos.1 and 2 are seeking possession of the flats along with interest and compensation.

ii. The brief submissions of the complainant at sr. no 3 are as follows:

- a) That the complainant at sr. no. 3 has purchased two flats in the respondent's project and has executed registered agreements for sale.
- b) That the promised date of possession has already lapsed, and the project is still not completed.
- c) That the complainants were in continuous follow-up with the respondents regarding the progress of the project, but there was no response from the respondents.
- d) That till date, the complainants have paid an amount of Rs. 1,30,71,467/- towards part payment of the total consideration for the said two flats.
- e) That the complainant was previously seeking possession along with interest. The complainant has now filed an application for amendment of the reliefs sought and presently seeks a refund of the entire amount paid along with interest.

iii. The brief submissions of the complainants at sr. no 4 are as follows:

- a. That the original purchaser of the flat died intestate on 08.02.2021, and the complainants are the legal heirs of the said original purchaser.
- b. That the death certificate of the original purchaser, along with the legal heirship certificate, is being uploaded on the portal.
- c. That the original purchaser had purchased the flats in the respondent's project, and the respondent had issued receipts for the payments made.
- d. That the respondent has neither issued any allotment letter nor executed the agreement for sale in respect of the said booked flats.

- e. That the complainants submit that they have uploaded the receipts and have paid a total amount of Rs. 41,12,613/- towards the consideration of the said flats.
 - f. That the complainants have filed an amendment application seeking modification of the reliefs, thereby altering the prayer from possession to a claim for refund of the amount paid along with interest.
- iv. The brief submissions of the complainants at sr. no 5 are as follows:
- a) That the complainant at sr. no. 5 has purchased a flat in the respondent's project and has executed a registered agreement for sale.
 - b) That the promised date of possession as per agreement for sale is already lapsed and yet the project has not been completed till date.
 - c) That the complainants have paid an amount of Rs 24,87,100/- as the part payment towards the consideration of the flat.
 - d) That the complainants now seek a refund of the amounts paid towards the consideration of the flat.
- v. The brief submissions of the complainant at sr. no 6 are as follows:
- a) That the complainant at sr. no. 6 has purchased a flat in the respondent's project, and to date, the respondent has not executed a registered agreement for sale.
 - b) The complainants have submitted the allotment letter confirming the booking of the said flat.
 - c) That the complainants have paid total amount of Rs. 52,50,000/- towards the consideration of the said flat.
 - d) That the respondent promoter had promised possession within 36 months from the date of commencement of the project. The promoter had received the commencement certificate in 2017.
 - e) That there has been no progress in the construction activities at the site, the project has been stalled, and the respondent has failed to obtain any further commencement certificate since 2017-2018 to date.

- f) That the promoter has failed to hand over possession of the flat as promised in the allotment letter, and the complainant is now seeking a refund of the amounts paid.

vi. The brief submissions of the complainant at sr. no 7 are as follows:

- a) That the complainant at sr. no 7 has purchased flat in the respondent's project and till date the respondent has not executed registered agreement for sale.
- b) The complainants have submitted the allotment letter confirming the booking of the said flat and that they have paid an amount of Rs 81,00,000/- towards the consideration of the flat.
- c) That the complainant wishes to withdraw from the project and seek a refund of the amounts paid, along with interest.

7. The brief common submissions of the respondent i.e. M/s AM Constructions in complaints listed at sr.no 1 to 7 are as follows:

- a) That the complainants have made false and frivolous allegations against the respondents and are attempting to mislead this Authority.
- b) That the respondent is entitled to an extension of time on account of the COVID-19 pandemic; therefore, there has been no delay in the completion of the real estate project.
- c) That the complaint is liable to be dismissed as non-maintainable due to non-joinder of necessary parties.
- d) That in the complaint listed at Sr. No. 4, this respondent has no privity of contract with the complainants and does not possess any proof establishing that they are the sole legal heirs of the late Jayant P. Tamaskar.
- e) That the appointment of this respondent as the developer for the implementation of the Slum Rehabilitation Scheme was terminated by the Slum Rehabilitation Authority by an order dated 20.08.2024, and that respondent no. 1 has challenged the order before the Apex Grievance Redressal Committee by way of an appeal.

- f) That the Apex Court has stayed the order dated 20.08.2024 passed by the SRA.
- g) That, as of date, the respondent-promoter remains the promoter of the project, and there has been no change of developer for the project.
8. From the facts and the submissions, the issues that need to be considered is *whether the complainants at sr. no 1 to 7 are entitled to seek any reliefs under the Act?*
9. Before answering the issues framed in paragraph no. 8 hereinabove the following observations are noteworthy.
- a) It is observed that the project is a redevelopment project comprising both rehabilitation and sale components, and that it falls under the Slum Rehabilitation Scheme (SRA Scheme).
- b) It is observed that the respondent-promoter has obtained an extension for the project. However, the project has been kept in abeyance due to non-compliance with QPRs, and a penalty has been imposed.
- c) It is observed that the Slum Rehabilitation Authority (SRA) passed an order dated 20.08.2024, terminating Respondent, i.e., M/s A.M. Constructions, as the developer of the project. The operative part of the said order is reproduced below for ease of reference:
- "1.The appointment of Respondent No.1 i.e. M/s. A. M. Construction is hereby terminated as Developer for implementation of S. R. Scheme on plot of land bearing C.S. No. 104(Pt), 105(Pt), 106(Pt), 107(Pt), 108(Pt), 109(Pt) and C.S. No. 94(Pt), 104(Pt), 1/104(Pt), 2/104(Pt), 108(Pt), 109(Pt), 110, 111 (Pt) and 112(Pt) of Salt Pan Division for "Sai Wadala SRA CHS Ltd, Chandani Ekta-A & B SRA CHS Ltd".*
- 2.The Respondent Society i.e. "Sai Wadala SRA CHS Ltd, Chandani Ekta-A & B SRA CHS Ltd". is at liberty to appoint New Developer of its choice in accordance with Rules, Regulations and Policy of Slum Rehabilitation Authority.*
- 3.The new incoming Developer to reimburse the actual expenses incurred by Respondent No.1 M/s. A. M. Constructions as per provisions of Section 13(3) of Maharashtra Slum Areas (I. C.& R.) Act, 1971."*
- d) Further, it is observed that the respondent-promoter filed Appeal No. 99 of 2024 before the Apex Grievance Redressal Committee, and an order was passed in the

said appeal on 20.10.2025. The SRA order dated 20.08.2024, terminating the respondent as the developer of the project, was stayed, and the appeal was disposed of with certain directions to the respondent-promoter. The operative part of the said order is reproduced below for ease of reference:

"a) Impugned order dated 20.08.2024 passed by SRA under section 13(2) of Slum Act is stayed.

b) Appellant to hand over the possession of 160 Rehab Tenements to eligible Slum Dwellers under subject S R scheme after obtaining OC for Rehab Building No. 1. Further, Appellant to obtain CC for Rehab Building No. 2 under subject S R Scheme.

c) Appellant to pay the rent to eligible Slum dwellers under subject S R Scheme within 4 weeks from the date of the order.

d) Concerned Competent Authority to decide the eligibility Appeal pending under subject S R Scheme as expeditiously as within 2 months.

e) If Appellant Developer fail to comply with aforesaid directions, then the impugned order dated 20.08.2024 will sustain. With aforesaid direction present Appeal No. 99 of 2025 filed by the M/s. A.M. Construction Builders and Developer stands disposed off."

- e) It is observed that in the complaints at sr. nos. 3 and 4, the complainants have filed amendment applications to modify the prayers in the complaints from possession with interest to a refund with interest.
- f) Further, in the complaint at sr. no. 4, it is stated that the original flat purchaser has expired, and that the complainants are the legal heirs of the original allottee. The death certificate and legal heirship documents have been placed on record. Additionally, the complainants have filed an application to add complainant no. 3, i.e., Naweli Jayant Tamaskar, who is the daughter of the deceased allottee.
- g) In the complaint at sr. no. 4, it is observed from the submissions of the complainants that no allotment letter or agreement for sale has been executed by the parties. However, the complainants have uploaded receipts evidencing the payments made to the respondent-promoter.
- h) Further, in the complaint listed at sr. no. 6, it is submitted that the copy of the agreement for sale on record is neither executed by both parties nor registered. However, an allotment letter, executed between the parties, has been uploaded

on the portal. It is further stated that in allotment letter the date of possession of the flat is stipulated as 36 months from the issuance of the final commencement certificate.

- i) That in the complaint listed at sr. no. 7, it is observed that the complainant has submitted the allotment letter along with receipts evidencing the amounts paid towards the consideration of the flat and further seeks a refund thereof along with interest.
- j) It is observed that the complainants at sr. nos. 3 to 7 have sought a refund of the amounts paid along with interest during the hearing.
- k) That the Authority has noted that in the complaint listed at sr. nos. 3 and 4 the complainants have incorrectly filed a single complaint for two flats, violating the procedural requirements under order 11. As per the order 11, individual complaints must be filed for each flat, as each complaint represents a separate cause of action with distinct interests. However, the Authority, considering the broader objectives of the Act, the Authority has opted for a balanced approach. The Act aims to protect allottees' interests, and dismissing the complaints solely on procedural grounds would unfairly harm them. While safeguarding allottee rights, the Authority levies a cost of Rs. 5,000/- on complaints listed at sr. nos. 3 and 4. This serves as a reminder to comply with procedural norms and prevent future lapses. Thus, the complainants at sr. nos. 3 and 4 are directed to pay cost of Rs. 5,000/- for each flat.
- l) The cost amount must be deposited with the Authority via demand draft in the name of the "REAL ESTATE REGULATORY FUND" within 30 days of this order. This ensures procedural accountability without denying substantive relief. By levying cost but allowing the complaints to be adjudicated on their merits, the Authority ensures both fairness and compliance with legal norms.

10. Further, in order to examine the issue framed at **paragraph -no. 8** pertaining to reliefs claimed under section 18 of the Act by complainants at sr. nos. 1 to 7, the Authority shall examine section 18 of the Act which is reproduced hereunder:

"18. (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:
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

From section 18 it is evident that the promoter (respondent herein) fails to handover possession as per the terms of the agreement for sale by the specified date therein, the allottees (the complainants herein) have a choice either to withdraw from the project or stay with the project.

11. Therefore, the essential conditions to invoke section 18, as outlined in the section, are:

- ii. Failure of promoter to give possession in accordance with the terms of the contract between the parties (such as booking form, allotment letter, agreement for sale, etc.) and within the date specified in the contract between the Parties.
- iii. Inability of the promoter to complete the project.

12. Accordingly, the remedy under section 18 is available to the allottee only after the promised date of possession or completion has expired and not prior thereto. To adjudicate the issue at hand, it is imperative to examine the documents placed on record to ascertain the date of completion as agreed between the parties herein. In this context, it is pertinent to note that the captioned complaints at sr. nos. 1 to 3, 5 and 7 have registered AFS/Allotment letter pertaining to their respective flats. From the material available on record, it is evident that the respondent has failed to deliver possession of the flat within the stipulated period thereby causing the delay in the handing over of the possession.

13. With respect to the complaint registered at sr. no. 4, the complainant has sought refund of the amounts paid along with interest and compensation. It is observed from the records and submissions made by the parties that neither the agreement for sale nor the allotment letter has been executed, and the date of possession is not available on record. However, the complainant has uploaded receipts evidencing payments made to the respondent towards the consideration of the flat. In the present case, in the absence of an agreed date of possession between the parties, this Authority deems it appropriate to consider the Proposed Completion Date (PCD), being 31.08.2021, as disclosed by the promoter on the official project webpage, as the effective date for determining the promoter's obligation to hand over possession.
14. Similarly, in the complaint listed at sr. no. 6, it is noted that the date of possession is stipulated as 36 months from the date of the final commencement certificate. However, the final commencement certificate has not been placed on record. In view of the absence of a definitive possession date and the ambiguity in the relevant clause regarding delivery of possession, this Authority, in the interest of justice and to safeguard the rights of the allottee, deems it appropriate to consider the Proposed Completion Date (PCD), being 31.08.2021, as disclosed by the promoter on the official project webpage, as the effective date for the purpose of determining the obligation to hand over possession.
15. In view of the foregoing observations, the provisions of the Act, the facts of the case, the submissions made by the parties, and the material placed on record, the Authority hereby concludes that the respondent has failed to hand over possession to the complainants by the agreed dates as stipulated in the terms and conditions of the agreement for sale (AFS), thereby causing a significant delay in the completion of the project as such the complainant at sr. no. 1 and 2 are entitled for possession along with interest on account of delay in handover of possession, and the complainants at sr. no. 3 to 7 are entitled to seek relief under section 18 for refund along with interest. Accordingly, the pleas of the complainants at sr. nos. 1 to 7 are hereby allowed, and the issue framed in

paragraph no. 8 is answered in the affirmative. The complainants at sr. nos. 1 to 7 are entitled to claim interest for the delay in handing over possession from the dates as specified in the table below.

SR NO	COMPLAINT NO.	DATE OF AFS ²	POSSESSION DATE AS PER AFS	INTEREST TO BE PAID FROM	INTEREST TO BE PAID TILL
1	CC006000000580859	28.11.2018	31.08.2021	01.09.2021	Date of handover of possession with occupation certificate
2	CC006000000580867	27.07.2018	31.08.2021	01.09.2021	Date of handover of possession with occupation certificate
3	CC12400900	17.12.2018 10.06.2019	31.08.2021 31.08.2021	01.09.2021	Realization of the full amount of refund.
4	CC12401060	14.07.2018 (Date of receipts)	31.08.2021 (Proposed date of completion)	01.09.2021	Realization of the full amount of refund.
5	CC12500906	13.06.2019	31.08.2021	01.09.2021	Realization of the full amount of refund.
6.	CC12501134	03.11.2016 (Date of allotment)	31.08.2021 (Proposed date of completion)	01.09.2021	Realization of the full amount of refund.
7.	CC12501824	26.12.2017 (Date of allotment)	31.08.2021 (As per allotment letter)	01.09.2021	Realization of the full amount of refund.

16. The respondent-promoter is entitled to claim the benefit of “moratorium period” as mentioned in the MahaRERA Notifications / Orders Nos. 13, 14 and 21 in respect of the complaints listed at sr. nos. 1 to 7 as the agreement for sale/allotment letter were executed prior to the outbreak of the pandemic and the promised possession dates fall within the period covered by the aforesaid MahaRERA Notifications/Orders.

FINAL ORDER

² AFS-Agreement for Sale

17. Therefore, after considering the aforementioned observations and provisions of the Act, the materials placed on record, the facts of the case and submissions made by the parties, the Authority passes the following order:
- a. The complaints at sr. nos. 1 to 7 are allowed.
 - b. The complainant at **sr. nos. 1 and 2 are entitled to claim interest** for delay in handover of possession on the total amount paid (*agreement value excluding Govt. Taxes, Stamp Duty and other necessary charges*) to the respondent from **01.09.2021** at the rate as prescribed *under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules 2017*, till the date handover of possession with OC.
 - c. The respondent is held liable and hereby directed **to refund the entire amounts paid** (*agreement value excluding Govt. Taxes, Stamp Duty and other necessary charges*) **by the complainant at sr. nos. 3 to 7 along with interest** accrued thereon from **01.09.2021** at the rate as prescribed *under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules 2017*, till the realization of the full amount of refund along with accrued interests, within 60 days from the date of this order.
 - d. The total arrears of interest accrued, shall be set off /adjusted against any outstanding dues required to be paid by the complainant towards the cost of the subject flat in terms of the agreement and the remaining amount shall be paid by the respondent in one instalment to the complainants within sixty days from the date of this order.
 - e. It is clarified that the expression “amount paid” shall be confined to the consideration amount paid by the complainant towards the unit, and shall not include stamp duty, registration fees, taxes, or any other statutory charges remitted to the Government.
 - f. The complainants at sr. nos. 3 and 4 are directed to pay a cost of Rs. 5,000/- each. The aforesaid amount shall be deposited with the Authority via

demand draft in the name of the “REAL ESTATE REGULATORY FUND” within 30 days from the date of this order.

- g. In the event of termination of the existing developer and appointment of a new developer, the rights and entitlements of the existing allottees shall remain protected and unaffected.
- h. The respondent-promoter is entitled to claim the benefit of “moratorium period” as mentioned in the MahaRERA Notifications / Orders Nos. 13, 14 and 21 in respect of the complaints listed at sr. nos. 1 to 7 as the agreement for sale/allotment letter were executed prior to the outbreak of the pandemic and the promised possession dates fall within the period covered by the aforesaid MahaRERA Notifications/Orders.
- i. No order as to costs.

Manoj Saunik
Chairperson, MahaRERA

Copy to Secretary, MahaRERA to ensure payment of costs

