



CIVIL

COMPLETION DATE AGREED BY THE PARTIES IN AGREEMENT FOR SALE IS ‘SACROSANCT’ –MAHARERA

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In recent order dated 13th January 2023¹, Hon'ble MahaRERA reiterated and ruled that the completion date agreed by the parties mentioned while entering into the Agreement for Sale is *sacrosanct*. The said order was delivered by Hon'ble MahaRERA while addressing batch of complaints filed against the Promoter/Developer for delay in possession.

The Promoter/Developer argued that, since the project was under SRA development scheme, the delay in construction was due to the delay caused by the Slum Rehabilitation Authority (SRA) in giving necessary permissions and hence, cannot be attributed to the Promoter/Developer. The Promoter/Developer was mandated to complete certain amenities and upon their completion, the concerned Planning Authority was to grant further construction permissions.

The Hon'ble Authority observed that section 18 of RERA Act is very clear. If the Promoter (in present case Developer) fails to handover the possession as per the terms of the agreements for sales by the specified date therein, then the Allottees will have a choice either to withdraw from the said Project or stay with the said Project. The date of possession specified in the agreements will prevail over the date specified before MahaRERA. The Hon'ble Authority has no mandate to rewrite agreements of sale. Therefore, the date of completion as agreed by the Parties in their agreements for sale is sacrosanct, notwithstanding any date that may have been declared at the time of registration of project.

The Hon'ble Authority also clarified that, in case the date of possession is left blank in their agreements, then the Hon'ble Authority would take the date of possession which the Promoter has stated as a proposed completion date while registering with MahaRERA.

The Hon'ble Authority reiterated that section 18 of the RERA Act is an absolute provision. If the Promoter/Developer fails to handover the possession by the specified date as mentioned in the agreements for sale (or as the case may be i.e. as per MahaRERA), then the Promoter/Developer will be liable to pay interest to the Allottee and section 18 of the RERA Act will not provide any waiver or disclaimer or exception to the Promoter/Developer.

The MahaRERA further made keen observations that the real estate projects do carry risks of litigations. The real estate Promoter/Developer has to cover and carry the risks in the business through careful prudence checks. However, the home buyers (i.e. Complainants) should be assured of delivery of the premises as promised upon payment of consideration by them. It is not for the Home Buyers/Allottees to ascertain the risk and apportion the same upon themselves.

¹ Complaint No. CC006000000192799, Rajeev Kumar vs. Monarch & Qureshi Builders, MahaRERA