

**BEFORE THE MAHARASHTRA**

**REAL ESTATE REGULATORY AUTHORITY, MUMBAI**

Virtual Hearing held through video conference as per MahaRERA Circular No. 27/2020

**1. COMPLAINT NO. CC006000000196769**

1. PRAJESH CHANDRA MOHAN ...COMPLAINANTS  
2. MICKY PRAJESH MOHAN

VS.

1. NEELKAMAL REALTORS TOWER PRIVATE LIMITED ...RESPONDENTS  
2. INDO GLOBAL SOFT SOLUTIONS AND TECHNOLOGIES PVT. LTD.  
3. GODREJ RESIDENCY PRIVATE LIMITED

a/w

**2. COMPLAINT NO. CC006000000196770**

- NAINA CHANDRA MOHAN ...COMPLAINANTS

VS.

1. NEELKAMAL REALTORS TOWER PRIVATE LIMITED ...RESPONDENTS  
2. INDO GLOBAL SOFT SOLUTION AND TECHNOLOGIES PVT. LTD.  
3. GODREJ RESIDENCY PRIVATE LIMITED

**MAHARERA PROJECT REGISTRATION NO. P51900006299**

**O R D E R**

June 2, 2026

*(Date of hearing - 12.08.2025 complaints at Sr. Nos. 1 and 2 were reserved for orders)*

**Coram: Shri. Ravindra Deshpande, Member II, MahaRERA**

Advocate Aman Arora appeared for the Complainants at Sr. Nos. 1 and 2

None appeared for Respondent nos. 1 and 2 in complaints at Sr. Nos. 1 and 2.

Advocate Abhijeet Mangade appeared for Respondent no. 3 in complaints at Sr. Nos. 1 and 2.

1. The complainants at Sr. Nos. 1 and 2 are home buyers and allottees within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act,

2016 (hereinafter referred to as “Act”) of the Real Estate Regulatory Authority (hereinafter referred to as “RERA”), and in the complaints at Sr. Nos. 1 and 2, respondent no. 1 is erstwhile promoter, respondent no. 2 is co-promoter, and respondent no. 3 is present promoter within the meaning of Section 2 (zk) of the Act who have registered the project namely “Godrej Avenue Eleven - Tower B” under Section 5 of the Act bearing MAHARERA Project Registration No. P51900006299 (hereinafter referred to as “Project”).

2. On the MahaRERA project registration webpage, the proposed date of completion of the project is mentioned as 31.12.2021, the revised proposed date of completion is mentioned as 30.12.2023 and the extended date of completion is mentioned as 31.12.2028. It is evident from the record that the promoter has obtained extension of the project registration up to 31.12.2029 vide certificate for extension of registration of project dated 09.03.2026. The project has not yet received an occupancy certificate.
3. The captioned complainants are seeking the following reliefs:

Sr. No.	Complaint No. and Date of Filing	Reliefs Sought
1.	CC00600000 0196769 20.04.2021	<b>ORIGINAL RELIEFS SOUGHT:</b> <i>a) In view of the facts stated hereinabove, the Complainants pray that the Respondents be directed and ordered to return an amount of Rs. 2,11,29,751/- being deposited with the Respondents, along with interest at 18% p.a. being Rs. 10,09,12, 229.17/- as on the date of filing this complaint or such other rate this Hon'ble Authority deems fit from the date of receipt of the amounts by the Respondents until realization thereof, in accordance with section 18 of the Act.</i> <i>b) The Respondents be charged with penalty for contravention of the provisions of the Act, in accordance with section 61 of the Act.</i> <i>c) The registration of the Project be revoked, in accordance with section 7 of the Act.</i> <i>d) The Respondents be directed to pay a sum of INR 20,00,000/- (Rupees Twenty Lakhs) or such other amount as this Hon'ble Authority deems fit towards compensation for the undue mental</i>

Sr. No.	Complaint No. and Date of Filing	Reliefs Sought
		<p><i>harassment and agony suffered by the Complainants on account of the Respondents' defaults and breaches.</i></p> <p>e) <i>Until the adjudication and final disposal of this Complaint, the Respondents be directed and ordered to deposit the amounts stated in prayer no. 1 hereinabove, with this Hon'ble Authority.</i></p> <p>f) <i>For costs of this Complaint.</i></p> <p>g) <i>For such other reliefs as this Authority deems fit and proper in the interest of Justice.</i></p> <p><b>AMENDED RELIEFS SOUGHT:</b></p> <p>a) <i>The Complainants pray that the Respondents be directed and ordered to pay interest at the rate of 18% per month or at any such rate as deemed appropriate and fit by this Hon'ble Authority w.e.f. 16 June 2013 on the amount of Rs. 2,11,22,026/- being deposited with the Respondents until possession of Flat No. B-3903 is handed over to the Complainants, in accordance with section 18 of the Act;</i></p> <p>b) <i>The Respondents be charged with penalty for contravention of the provisions of the Act, in accordance with section 61 of the Act;</i></p> <p>c) <i>The Respondent No.3 be ordered and directed to execute and register an Agreement for Sale with respect to Complainant's Flat No. B-3903 in the Project in accordance with Section 13 of the RERA Act;</i></p> <p>d) <i>The Respondents be directed to pay a sum of INR 20,00,000/- (Rupees Twenty Lakhs) or such other amount as this Hon'ble Authority deems fit towards compensation for the undue mental harassment and agony suffered by the Complainants on account of the Respondents' defaults breaches and delay;</i></p> <p>e) <i>Until the final adjudication and disposal of this Complaint, this Hon'ble Authority be pleased to pass an order of injunction against the Respondents including their agents, servants, assigns, and/or anyone claiming through or under them from selling, alienating, disposing of, transferring, leasing, licensing, conveying or creating any third party rights of whatsoever nature in respect of the Complainant's Flat No.B-3903 in the Project;</i></p> <p>f) <i>For costs of this Complaint;</i></p>

Sr. No.	Complaint No. and Date of Filing	Reliefs Sought
		g) <i>For such other reliefs as this Authority deems fit and proper in the interest of Justice.</i>
2.	CC00600000 0196770 20.04.2021	<p><b>ORIGINAL RELIEFS SOUGHT:</b></p> <p>a) <i>In view of the facts stated hereinabove, the Complainants pray that the Respondents be directed and ordered to return an amount of Rs. 2,11,22,026/- being deposited with the Respondents, along with interest at 18% p.a. being Rs. 10,17,81,235.13/- as on the date of filing this complaint or such other rate this Hon'ble Authority deems fit from the date of receipt of the amounts by the Respondents until realization thereof, in accordance with section 18 of the Act.</i></p> <p>b) <i>The Respondents be charged with penalty for contravention of the provisions of the Act, in accordance with section 61 of the Act.</i></p> <p>c) <i>The registration of the Project be revoked, in accordance with section 7 of the Act.</i></p> <p>d) <i>The Respondents be directed to pay a sum of INR 20,00,000/- (Rupees Twenty Lakhs Only) or such other amount as this Hon'ble Authority deems fit towards compensation for the undue mental harassment and agony suffered by the Complainants on account of the Respondents' defaults and breaches.</i></p> <p>e) <i>Until the adjudication and final disposal of this Complaint, the Respondents be directed and ordered to deposit the amounts stated in prayer no. 1 hereinabove, with this Hon'ble Authority.</i></p> <p>f) <i>For costs of this Complaint.</i></p> <p>g) <i>For such other reliefs as this Authority deems fit and proper in the interest of Justice.</i></p> <p><b>AMENDED RELIEFS SOUGHT:</b></p> <p>a) <i>The Complainants pray that the Respondents be directed and ordered to pay interest at the rate of 18% per month or at any such rate as deemed appropriate and fit by this Hon'ble Authority w.e.f. 16 June 2013 on the amount of Rs. 2,11,22,026/- being deposited with the Respondents until possession of Flat No. B-4203 is handed over to the Complainant, in accordance with section 18 of the Act;</i></p>

Sr. No.	Complaint No. and Date of Filing	Reliefs Sought
		<p>b) <i>The Respondents be charged with penalty for contravention of the provisions of the Act, in accordance with section 61 of the Act;</i></p> <p>c) <i>The Respondent No.3 be ordered and directed to execute and register an Agreement for Sale with respect to Complainant's Flat No. B-4203 in the Project in accordance with Section 13 of the RERA Act;</i></p> <p>d) <i>The Respondents be directed to pay a sum of INR 20,00,000/- (Rupees Twenty Lakhs Only) or such other amount as this Hon'ble Authority deems fit towards compensation for the undue mental harassment and agony suffered by the Complainants on account of the Respondents' defaults breaches and delay;</i></p> <p>e) <i>Until the final adjudication and disposal of this Complaint, this Hon'ble Authority be pleased to pass an order of injunction against the Respondents including their agents, servants, assigns, and/or anyone claiming through or under them from selling, alienating, disposing of, transferring, leasing, licensing, conveying or creating any third party rights of whatsoever nature in respect of the Complainant's Flat No.B-4203 in the Project;</i></p> <p>f) <i>For costs of this Complaint;</i></p> <p>g) <i>For such other reliefs as this Authority deems fit and proper in the interest of Justice.</i></p>

4. The complaints at Sr. Nos. 1 and 2 were heard on 12.08.2025 and the following roznamas were recorded by this Authority:

Sr. No.	Complaint No. and Date of Filing	Rozenama Recorded
1.	CC00600000 0196769 20.04.2021	<p><i>The Adv. for Complainants is present and Adv. for proposed Respondent No. 3 is present. Respondent Nos. 1 &amp; 2 are absent. The Respondent Nos. 1 &amp; 2 are absent even though the notice of hearing and link of hearing was duly served upon them. The Adv. for the Complainants submitted that he has filed the written arguments on the MahaRERA website. Adv. for Respondent No. 3 submitted that he needs 2 to 3 days to upload written arguments. Considering the</i></p>

Sr. No.	Complaint No. and Date of Filing	Roznama Recorded
		<p><i>submissions of the Adv. for Respondent No. 3, time till 20.08.2025 is granted to both the parties to upload written arguments. The Complainant may also upload additional written arguments if desires. The Adv. for Complainants submitted that the present complaint is filed for relief to give direction to the Respondent to execute the agreement for sale. It is mentioned that the 30% consideration is paid by the Complainants. The Adv. for Complainants also submitted that the interest for the delayed possession may kindly be granted as there is delay of 10 years. It is submitted that the allotment was done in the year 2010 and the possession date was not mentioned in the said allotment letter. It is submitted one sided agreement is not binding on the Complainants. It is also the relief under section 18 is maintainable even if there is no agreement. The Respondent shared agreement on 07.08.2025 the Complainants has given reply to the same on 09.08.2025. The Adv. for Complainants submitted that Respondent No. 3 steps in the shoes of Respondent No. 1 hence, he is liable to satisfy the prayer of the Complainants. The Complainants also submitted that no third party right shall be created. Adv. for the Respondent no. 3 submitted that the Complainants himself is not clear against whom he is claiming the relief. The Respondent No. 1 was earlier developer and Respondent No. 3 has stepped in the shoes of the erstwhile developer recently. The Complainants paid 30% amount to the Respondent No. 1 and not to the Respondent No. 3, no AFS is between Complainants and Respondent No. 3 exist. Request for allotment exhibit D it is dated 15.10.2010 the amount paid in the instance is the interest free deposit paid by the Complainants to the Respondent No. 1. The Adv. for Respondent No. 3 brought attention to the clause No. 6 of the said document. It is submitted that the Complainants have accepted that this document is not an AFS it is investor agreement. Earlier the complaint was filed for seeking refund of the amount thereafter, the Complainants amended the complaint. The completion date of project is year 2028 hence, the complaint is premature against the Respondent No. 3. The Respondent No. 3 is ready to pay the interest free deposit amount paid by the Complainant to the Respondent No.</i></p>

Sr. No.	Complaint No. and Date of Filing	Roznama Recorded
		<p>1. The parties are at liberty to upload their written arguments thereafter; this matter will be reserved for order.</p>
2.	CC00600000 0196770 20.04.2021	<p>The Adv. for Complainants is present and Adv. for the proposed Respondent No. 3 is present. Respondent Nos. 1 &amp; 2 are absent. The Respondents Nos. 1 &amp; 2 are absent even though the notice of hearing and link of hearing was duly served upon them. The Adv. for the Complainants submitted that he has filed the written arguments on the MahaRERA website. Adv. for Respondent No. 3 submitted that he needs 2 to 3 days to upload written arguments. Considering the submissions of the Adv. for Respondent No. 3, time till 20.08.2025 is granted to both the parties to upload written arguments. The Complainants may also upload additional written arguments, if they desire. The Adv. for Complainant submitted that the present complaint is filed for relief to give direction to the Respondent to execute the agreement for sale. It is mentioned that the 30% consideration is paid by the Complainants. The Adv. for Complainant also submitted that the interest for the delayed possession may kindly be granted as there is delay of 10 years. It is submitted that the allotment was done in the year 2010 and the possession date was not mentioned in the said allotment letter. It is submitted one sided agreement is not binding on the Complainant. It is also the relief under section 18 is maintainable even if there is no agreement. The Respondent shared agreement on 07.08.2025 the Complainant has given reply to the same on 09.08.2025. The Adv. for Complainants submitted that Respondent No. 3 steps in the shoes of Respondent No. 1 hence, he is liable to satisfy the prayer of the Complainants. The Complainants also submitted that no third party right shall be created. Adv. for the Respondent no. 3 submitted that the Complainants themselves are not clear against whom he is claiming the relief. The Respondent No. 1 was earlier developer and Respondent No. 3 has stepped in the shoes of the erstwhile developer recently. The Complainant paid 30% amount to the Respondent No. 1 and not to the Respondent No. 3, no AFS between Complainant and Respondent No. 3 exists. Request for allotment is at exhibit D and is dated 15.10.2010 the amount paid in the instance is the</p>

Sr. No.	Complaint No. and Date of Filing	Roznama Recorded
		<i>interest free deposit paid by the Complainants to the Respondent No. 1. The Adv. for Respondent No. 3 brought attention to the clause No. 6 of the said document. It is submitted that the Complainant has accepted that this document is not an AFS it is investor agreement. Earlier the complaint was filed for seeking refund of the amount thereafter, the Complainants amended the complaint. The completion date of project is year 2028 hence, the complaint is premature against the Respondent No. 3. The Respondent No. 3 is ready to pay the interest free deposit amount paid by the Complainant to the Respondent No. 1. The parties are at liberty to upload their written arguments thereafter, this matter will be reserved for order.</i>

5. Brief facts of the captioned complaints are hereunder represented in a tabular format:

Sr. No	Complaint No. and Date of Filing	Tower and Flat no. (As per ARFA <sup>1</sup> )	Date of ARFA	Date of Possession (As per ARFA)	Total Consideration (As per ARFA)	Reliefs Sought
1.	CC006000 000196769 20.04.2021	B-3903 and 3 car parking spaces	27.01.2018	31.12.2022	Rs. 7,22,70,000/-	Interest for delayed possession, execution of AFS
2.	CC006000 000196770 20.04.2021	B-4203 and 3 car parking spaces	02.02.2018	31.12.2022	Rs. 7,22,70,000/-	Interest for delayed possession, execution of AFS

6. The brief and common submissions of the captioned complainants at Sr. Nos. 1 and 2 are as follows:

A. The complainants submit that, in the year 2010, they became aware of a project originally known as 'Orchid Heights', subsequently renamed as 'One Mahalaxmi Phase 2', developed by respondent no. 1. Based on the representations and assurances made by respondent no. 1, the

<sup>1</sup> ARFA - Amendment to Request for Allotment

complainants at Sr. Nos. 1 and 2 booked flat nos. 3903 and 4203, respectively, situated in Wing B of the said project.

- B. The complainants submit that respondent no. 1 issued allotment letters dated 15.06.2010 in favour of both captioned complainants. The said allotment letters recorded the total consideration for respective flats as Rs. 7,22,70,000/- each and further stipulated that respondent no. 1 would execute and register agreements for sale in favour of the complainants. Consequently, they made partial payments towards the total considerations of their respective flats, which were duly acknowledged by respondent no. 1 through issuance of receipts.
- C. The complainants further submit that they received newsletters through email from respondent no. 1 providing updates regarding the progress of the project.
- D. The complainants submit that upon learning about the arrest of certain directors of respondent no. 1 in connection with the 2G spectrum case, they sought clarification from respondent no. 1 regarding the status and progress of construction of the project via email dated 10.05.2011. After repeated follow-ups, respondent no. 1, via email dated 16.05.2011, assured the complainants that the construction activities were ongoing and that the arrests had not adversely affected the operations of the project.
- E. Subsequently, the complainants continued to follow up with respondent no. 1 regarding the status of construction and also called upon respondent no. 1 to execute the agreements for sale. However, respondent no. 1 failed to respond to such communications and eventually discontinued issuing newsletters and updates concerning the project.
- F. The complainants submit that, after persistent follow-ups, respondent no. 1 subsequently informed them of certain changes in the project layout arising out of amendments to the Development Control Regulations and

Public Parking Lot Policy, which resulted in a reduction in the area of the flats allotted to the complainants. Consequently, both captioned complainants, via letters dated 16.05.2017, called upon respondent no. 1 to refund the amounts paid by them along with applicable interest. However, respondent no. 1 neither refunded the amounts nor complied with the said requests and instead sought to persuade the complainants to accept the revised layout plans.

- G. Subsequently, respondent no. 1 issued letters dated 27.01.2018 and 02.02.2018 informing the complainants at Sr. Nos. 1 and 2, respectively, that the project had been registered under MahaRERA, and respondent no. 2 has been inducted as a co-promoter of the project. The said communication further represented that the project would be completed by 31.12.2022 and that the balance consideration amount would be payable in stages in accordance with Annexure 3 annexed to the said letter. It further mentioned that the complainants would be informed of the date for execution and registration of the agreements for sale. However, despite such assurances, respondent no. 1 failed to share any draft agreement for sale with the complainants for their review and perusal.
- H. The complainants submit that despite the repeated assurances given by respondent nos. 1 and 2, continuous follow-ups by the complainants, and timely payments made by them, respondent nos. 1 and 2 failed to execute and register the agreements for sale, complete the construction of the project and handover possession of the respective flats to the complainants.
- I. The complainants submit that respondent nos. 1 and 2 subsequently called upon them to pay MVAT charges along with interest under the VAT amnesty scheme. In response thereto, the complainants at Sr. No. 1, by email dated 13.08.2019, expressed willingness to pay only the principal MVAT amount without interest, whereas the complainant at Sr.

No. 2 did not make any payment towards the said charges. However, respondent nos. 1 and 2 failed to accept the proposal made by the complainants at Sr. No. 1.

- J. Thereafter, the complainants continued to follow up with respondent nos. 1 and 2; however, no response or clarification was received from them.
  - K. The complainants at Sr. Nos. 1 and 2 submits that they have, to date, paid amounts aggregating to Rs. 2,11,29,751/- and Rs. 2,11,22,026/-, respectively, towards the consideration of their respective flats.
  - L. The complainants further submit that the project has presently been taken over by respondent no. 3 and has now been renamed as "Godrej Avenue Eleven - Tower B".
  - M. The complainants further submit that they subsequently filed an application seeking amendment of the captioned complaints to implead respondent no. 3 as a respondent and to suitably modify the reliefs sought in the complaint.
7. Respondent nos. 1 and 2 in both captioned complaints have failed to file their replies. The brief and common submissions of the captioned respondent no. 3 at Sr. Nos. 1 and 2 are as follows:
- A. Respondent no. 3 submits that the complainants do not fall within the definition of "allottee" as provided under section 2(d) of the Act. It further submits that it is an undisputed fact that neither any allotment letters were issued nor agreements for sale were executed for the respective flats.
  - B. As per section 31(1) of the RERA Act, the complainants cannot be regarded as "aggrieved persons". Consequently, no cause of action survives against it, and the complainants lack the requisite locus standi to maintain the present complaints.

- C. Respondent no. 3 submits that despite making bona fide efforts to amicably resolve the dispute by offering refund of the amounts paid by the complainants without interest, the complainants amended the reliefs sought in the complaints. Such an amendment is impermissible in law which as it materially alters the nature and scope of the original reliefs claimed.
- D. Respondent no. 3 further submits that the stamped request for allotment (RFA) is merely in the nature of an offer and does not constitute an allotment or a concluded contract between the parties. Furthermore, the said document does not specify any date of possession.
- E. Respondent no. 3 submits that it is an admitted fact that respondent no. 3 has taken over the project and that the revised proposed date of possession is 31.12.2028. It is therefore contended that no delay in handing over possession has yet occurred.
- F. Respondent no. 3 further submits that all amounts paid by the complainants were received exclusively by respondent no. 1 and not by respondent no. 3. Furthermore, the amounts paid by the complainants were expressly treated as “Interest Free Deposit” under clause 4 of the RFA document, which also specifically provides that the said document shall not be construed as an agreement for sale.
- G. Respondent no. 3 further submits that under the provisions of the MOFA Act, it was legally permissible for developers to accept interest-free deposits, the same were adequately disclosed and transparently accepted by the purchasers. Hence, the complainants’ claim for interest is untenable.
- H. Respondent no. 3 submits that the complainants had consented to the revised layout plans and the induction of respondent no. 3 as the new promoter, after being informed of the same by respondent no. 1 vide letters dated 19.10.2022. Subsequently, consistent efforts were made to

maintain communication and transparency with the complainants by regularly informing them of developments pertaining to the project.

- I. Respondent no. 3 therefore submits that the present complaints are premature and, consequently, not maintainable in law.
  
8. From the facts and submissions, the issue that needs to be considered is *whether complainants at Sr. Nos. 1 and 2 are entitled to seek reliefs under Section 18 of the Act?*
  
9. Before determining the issue at paragraph 8, the following common observations are noteworthy:
  - A. It is observed that this Authority, vide interim order dated 30.05.2025, allowed the amendment application and permitted the complainants to amend both captioned complaints. Thereafter, amended complaints were filed in both the captioned complaints.
  - B. It is observed that the initial proposed date of completion of the project is mentioned as 31.12.2021 and several project registration extensions were applied by the erstwhile promoter, i.e. respondent no. 1. Subsequent to the change of promoter, the date of completion of the project was revised to 31.12.2029. Further, the subject project has not yet received the occupancy certificate.
  - C. It is observed that respondent nos. 1 and 2 in both captioned complaints have neither filed any reply nor produced any documentary evidence to counter the claims advanced by the complainants. It is also observed that the complainants at Sr. Nos. 1 and 2 are members of the same family.
  - D. It is observed that both captioned complainants have placed on record a stamped documents styled as "request for allotment" dated 15.06.2010 (RFA) executed in favour of respondent no. 1. The documents are duly signed by both the parties. Upon perusal of the said RFA, it is observed that clause 4(v) states that respondent no. 1 shall furnish to the complainants a duly stamped agreement for sale in accordance with law,

while clause 6 states that the said RFA document neither purports to be nor shall be deemed to constitute an agreement to sell, and that possession of the flat shall not be handed over until execution of such agreement.

- E. It is further observed that clause 4 of the RFA records that the payments made by the complainants towards the total consideration were treated as “interest free deposit”.
- F. Although no allotment letters have been placed on record, the letters dated 19.10.2022 issued by respondent no. 1, pursuant to the ARFA, specifically recognize the complainants as allottees of their respective flats.
- G. It is observed that clause 11 of the said letters dated 19.10.2022 states that the allottees agree not to claim any interest, compensation, or refund from the existing promoter and incoming promoter, namely respondent nos. 1 and 3 respectively, up to the revised possession date along with occupancy certificate, i.e. 31.12.2028 for Tower B. Further, clause 13 states that the allottees undertake to execute and register the agreement for sale upon being called upon by the incoming promoter. Furthermore, clause 14 states that all the past financial commitments of the developer, including any interests, penalties, rent, and compensation, shall stand waived. However, it is noted that the said letters do not bear signatures of the complainants-allottees. Accordingly, the terms contained therein, including clauses pertaining to waiver of interest, compensation, or prior liabilities, cannot be treated as binding upon the complainants.
- H. An email dated 13.10.2023 evidence communication between respondent no. 3 and the complainants pertaining to change in relationship manager. It is further observed that respondent no. 3, vide letter dated 26.02.2025, informed the complainants that a draft agreement for sale was available on the MahaRERA portal and called upon them to approach respondent

no. 3 for execution and registration of the agreement for sale in respect of the subject flats.

- I. It is observed that both captioned complainants have placed on record sufficient documentary evidence, including payment receipts dated from May 2010 to June 2011, letter dated 28.12.2011 issued by respondent no. 1, establishing that the complainants had paid amounts more than 20% each towards the total consideration of the respective flats.
- J. It is further observed that under the provisions of MOFA, a promoter was required to execute and register an agreement for sale prior to accepting more than 20% of the total consideration amount from a purchaser. However, in the present cases, respondent no. 1 had admittedly collected amounts exceeding the statutory limit prescribed under MOFA without executing the agreement for sale.
- K. It is further observed that both captioned complainants have placed on record sufficient email correspondence evidencing continuous communication with respondent no. 1 during the period between 2011 and 2021.
- L. The complainants at Sr. No. 2 have placed on record a termination letter dated 07.08.2025 issued by respondent no. 3 on the ground of failure on the part of the complainants to come forward for execution of the agreement for sale, with reference to a booking form dated 06.07.2023. However, neither party to the present complaint has placed on record the said booking form. It is further observed that, pursuant to the receipt of termination letter, the complainants responded by issuing legal notice dated 09.08.2025 alleging the misconduct on the part of respondent no. 3 prior to the scheduled hearing on 12.08.2025 and calling upon respondent no. 3 to withdraw the said termination letters.
- M. It is observed that there is no documentary evidence placed on record by respondent no. 3 indicating persistent attempts made to call upon the

complainants for execution of agreements for sale. Accordingly, the Authority is of the opinion that the said termination letter is not valid.

N. It is further observed that respondent no. 3 has failed to produce documents, such as a transfer agreement executed with respondent no. 1, in order to ascertain the rights and liabilities transferred to respondent no. 3.

1. Based on the aforesaid observations, the foremost issue that arises for determination is whether the complainants in both the captioned complaints qualify as "allottees" within the meaning of the Act. Upon consideration of the documents placed on record, including the payment receipts, the letters regarding amendments to the request for allotment dated 27.01.2018 and 02.02.2018, and the letters dated 19.10.2022, it is evident that although neither formal allotment letters nor agreements for sale were executed between the parties, the complainants remained in continuous correspondence with respondent no. 1 and fulfilled their financial obligations by making substantial payments towards the consideration of the subject flats. The continuous acknowledgment of the complainants' booking, acceptance of substantial consideration, and identification of specific flats in favour of the complainants sufficiently establish the jural relationship of promoter and allottee under section 2(d) of the Act. In the circumstances, both captioned complainants are held to fall within the definition of "allottee" under the provisions of the Act.
2. It is further necessary to determine whether the respondents have violated the provisions of the Act. From the material available on record and the observations recorded hereinabove, it is evident that respondent no. 1 accepted amounts in excess of the statutory limit prescribed under law without executing agreements for sale in favour of the complainants. Subsequently, respondent no. 3 assumed the position of respondent no. 1 as the promoter of the project. Merely because the project was transferred to respondent no. 3, the liabilities of respondent no. 1 do not stand extinguished.

Further, respondent no. 3 failed to produce sufficient documentary evidence, such as transfer agreement executed between respondent nos. 1 and 3, thereby making it difficult to ascertain the exact nature and extent of rights and liabilities transferred to the present promoter. However, it remains the statutory duty of the intending promoter to ensure compliance with all pending obligations under the provisions of the Act. Accordingly, the obligations and liabilities originally imposed upon respondent no. 1 shall continue to bind upon respondent no. 3 as the succeeding promoter. By taking over the project as the promoter and continuing it under the MahaRERA registration, respondent no. 3 assumed the statutory obligations associated with the project toward the existing allottees. Any inter se arrangement between respondent nos. 1 and 3, and any contractual clause or document purporting to waive the promoter's liabilities or statutory obligations cannot defeat the rights of the allottees nor override the mandatory provisions of MOFA and the RERA Act. The statutory obligations under MOFA and the RERA Act cannot be defeated merely by describing the amounts received as an "interest free deposit". Further, respondent no. 2, being a co-promoter in respect of the subject project, cannot escape liability towards the complainants merely on the ground of limited or ancillary participation in the project. Accordingly, all captioned respondents are jointly and severally liable for the obligations arising in the present complaints.

3. In view of the foregoing findings, this Authority directs respondent no. 3 to execute and register agreements for sale in favour of the complainants in respect of the subject flats.
4. Moving ahead to examine the issue framed at paragraph 8 pertaining to reliefs claimed under section 18 of the Act for interest on account of delay in handover of possession. The Authority shall examine section 18 of the Act.

5. The provision of section 18 clearly states that if the promoter fails to handover possession by the specified date, the promoter shall be liable to pay interest to the allottee. The entitlement under section 18 cannot ordinarily be defeated by unilateral waiver clauses or disclaimers not recognized under the Act. It is clear that remedy to the allottee under section 18 is available only after the promised date of possession/completion has passed and not before. Hence, to determine the issue at hand, it is paramount to examine the material placed on record to discover the date of completion as was agreed between the parties herein.
6. The complainants have placed on record sufficient documentary evidence to establish that they have made substantial payments towards the consideration of the subject flats, thereby duly fulfilling their financial obligations under the arrangement between the parties.
7. In the absence of executed agreement for sale, it becomes necessary to independently ascertain the date of possession for the purpose of determining the period for which interest is payable. In the present captioned complaints, no contractual document has been executed on the basis of which the possession date can be ascertained. However, from the letters of amendment to request for allotment dated 27.01.2018 and 02.02.2018, it is evident that respondent no. 1 represented to the complainants that possession of the respective flats would be handed over by 31.12.2022. Though no registered agreement for sale exists, the possession date can nevertheless be inferred from subsequent written representations and amendments issued by respondent no. 1. Accordingly, this Authority deems it appropriate to treat 31.12.2022 as the agreed date for handing over possession of the subject flats.
8. In view of the above, the delay in handing over possession beyond 31.12.2022 stands established, and the contention of respondent no. 3 that the complaints are premature is rejected.

9. Further, the respondents-promoters have neither justified the delay nor demonstrated compliance with contractual and statutory obligations under the RERA Act. The conduct of the respondents-promoters in accepting substantial consideration without executing an agreement for sale and failing to deliver possession amounts to deficiency in service and violation of statutory obligations under the Act. Accordingly, both captioned complainants-allottees are entitled to relief under section 18 of the Act.
10. Thus, based on the observations made herein above the issue at paragraph 8 is answered in **affirmative** for complaints at Sr. Nos. 1 and 2. The complainants at Sr. Nos. 1 and 2 are entitled to seek interest for delayed possession on the amounts paid to the respondents. The interest shall be paid in following manner:

Sr. No.	Complaint No. and Date of Filing	Date of Possession (As per ARFA)	Interest to be Paid from	Interest to be paid till
1.	CC00600000019676 9 20.04.2021	31.12.2022	01.01.2023	Handing over possession along with occupancy certificate.
2.	CC00600000019677 0 20.04.2021	31.12.2022	01.01.2023	Handing over possession along with occupancy certificate.

11. Since the respondents-promoters have failed to hand over possession to complainants at Sr. Nos. 1 and 2 within the agreed date of possession as reflected from the amendments to the request for allotment and subsequent written representations, the complainants are constrained to file present complaints against the respondents for direction to handover possession of their respective flats and interest for delayed possession. In such circumstances, the respondents are liable to pay cost of these complaints to the complainants. Hence, I proceed to pass following order:

## ORDER

The captioned complaints at Sr. Nos. 1 and 2 are **allowed**, for reasons more specifically mentioned hereinabove.

- A. In the complaints at Sr. No. 1 and 2, respondent no. 3 is hereby directed to execute and register agreements for sale in respect of the subject flats in favour of the complainants within sixty days from the date of this order. Failing which, the complainants shall be at liberty to initiate appropriate execution proceedings under the Act.
- B. The complainants at Sr. Nos. 1 and 2 are entitled to claim interest for delay in handover of possession on the total amount paid to the respondents (*excluding amounts paid towards taxes and other charges such as stamp duty, registration fees and such other amounts paid to statutory authorities*) from the date 01.01.2023 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* to the date of handover of possession with occupancy certificate applicable to the respective subject flat.
- C. The total arrears of interest accrued, shall be set off /adjusted against any outstanding dues required to be paid by complainants towards the cost of the subject flat, if any, and the remaining amount, if any, shall be paid by the promoters in one instalment to the allottees, within sixty days from the date of this order. Further, any interest accruing up to date of handover of possession, subsequent to payment of above, is to be paid in one instalment within thirty days of handover of possession with occupancy certificate.
- D. The respondents-promoters are **NOT** entitled to claim the benefit of “moratorium period” as mentioned in the Notifications/Orders Nos. 13 & 14 dated 02.04.2020, 18.05.2020 respectively issued by the MahaRERA.

- E. All other reliefs claimed by complainants at Sr. Nos. 1 and 2 are rejected, save and except what has been mentioned herein in the final order at paragraph A & B hereinabove.
- F. The respondents at Sr. Nos. 1 and 2 are directed to pay costs of Rs. 20,000/- to each of the complainants at Sr. Nos. 1 and 2.

**(Ravindra Deshpande)**  
**Member II, MahaRERA**

**Date: 02.06.2026**