IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 713 OF 2022

WITH

INTERIM APPLICATION NO. 19809 OF 2022

IN

SECOND APPEAL NO. 713 OF 2022

Aurangbad Holiday Resorts Pune- 411011 **... Appellant**

Versus

Rahul Ganpatrao Narawade And Anr **... Respondents**

Mr. Mustafa Kachwala *a/w Ms. S. Shetty, Ms. Sakshi S. i/b Kachwala Misar & Co. for Appellant/Applicant in IA/19809/2022.*

Mr. Amol A. Deshpande *for Respondents.*

CORAM : SANDEEP V. MARNE, J.

DATE : 1 OCTOBER 2026.

P.C. :

1) The Appeal challenges Order dated 17 June 2019 passed by the Maharashtra Real Estate Regulatory Authority, Mumbai directing the Appellant to pay to the allottees simple interest at the rate of 10.75% per annum on amount of Rs.79,21,148/- from 16 February 2016 till the date of handing over of possession of the flat. The Regulatory authority has also awarded costs of Rs.20,000/- in favour of the allottees. The order passed by the Regulatory Authority has been confirmed by the Maharashtra Real Estate Appellate Tribunal, Mumbai by dismissing the Appeal preferred by the Appellant.

MANE SONALI DILIP Digitally signed by MANE SONALI DILIP Date: 2026.10.03 11:04:15 +0530

2) I have heard Mr. Kachwala, the learned counsel appearing for Appellant and Mr. Deshpande, the learned counsel appearing for Respondent and have considered the submissions canvassed by them.

3) The allottees booked Flat No. 1004 in the project "Jubilee Park" at village Warje, Pune (taken up for construction by the Appellant) for a total consideration of Rs.83,38,050/-. Under the Agreement for Sale, the possession of the flat was to be handed over within 12 months i.e. 15 February 2016. According to the Appellant, the Environment Department issued stop-work notice under a misconception that the project requires environmental clearance. By Circular dated 21 April 2015, the Government of Maharashtra clarified that construction on land admeasuring less than 20,000 sq. mtrs. is not to be treated as violation of the EIA Notification, 2006. According to Appellant by 10 June 2015, it had completed 95% of the project. According to Appellant, further construction could not be completed on account of non grant of environmental clearance. Appellant relies on order passed by National Green Tribunal dated 5 November 2024 in support of its contention that, since the project is below 20,000 sq.mtrs., it does not require prior environmental clearance. Nonetheless, the Appellant has obtained environmental clearance for the project from the competent authority on 8 July 2025. The Appellant has also secured Consent to Operate from Maharashtra Pollution Control Board for the proposed extended project on 23 March 2026. It is, therefore contended on behalf of the Appellant that completion of the project is delayed for the reasons not attributable to the Appellant.

4) The Provisions of Section 18 of Real Estate (Regulation and Development) Act, 2016 (**RERA Act**) imposes an unqualified obligation on the promotor to pay interest for every month of delay to the allottee, who does not intend to withdraw from the project. In the present case, the allottees are not intending to withdraw from the project. They have paid substantial consideration of Rs.79,21,148/- out of agreed consideration of Rs.83,38,050/-. Despite the passage of more than 11 years, the allottees are still awaiting possession of their flat. So far as unqualified and absolute obligation of promotor to pay interest to the allottee under Section 18 of the RERA Act, recently this Court in ***Sanklecha Constructions Pvt. Ltd and Ors. Vs. Nitin Madhukar Shewale and Ors.***[1] has held in paragraph 28 and 33 of the judgment as under:

> **28.** A plain reading of Section 18(1) of RERA would indicate that promoter has an obligation to return the amount received by him alongwith interest on demand by the allottee. Section 18(1) of RERA does not leave any option or discretion about the timeline at which refund is to be made. Once the promoter fails to complete the project or is unable to give possession of the apartment within the timeline agreed, allottee has a right to demand refund of amount paid by him, and the promoter has an obligation to fulfill that demand by refunding the amount received by him alongwith interest immediately on making such demand. In that sense, there is an unqualified right created in favour of the allottee to seek the refund under Section 18(1) of RERA.
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> **33.** Thus, it cannot be said by any stretch of imagination that what is observed by the Apex Court in paragraph 24 of the judgment in **Newtech Promoters** (supra) is a mere obiter. The Apex Court in Newtech Promoters lays down a law that there is a priority, immediacy and expediency accorded to the right of the allottee to seek refund. The Apex Court has interpreted the expression "on demand" appearing in Section 18(1) of RERA. Therefore, observations of the Hon'ble Apex Court in paragraph 24 of the judgment are also required to be read in conjunction with the findings recorded in paragraphs 71, 72 and 74 of the judgment. Merely because the findings in paragraph 24 precede the formulation of questions/issues in paragraph 30, it would be erroneous to assume that the observations made in paragraph 24 are mere obiter. The Apex Court has declared a law in **Newtech Promoters** (supra) that an allottee has an

1 Second Appeal (st) No. 8825 of 2025 decided on 28 September 2026.

> unqualified right to seek refund under Section 18(1) of RERA and if the promoter fails to give possession of the apartment within time stipulated under the terms of agreement, regardless of unforeseen events or stay orders of Court/Tribunal (not attributable to the allottee), the promoter is under obligation to refund the amount on demand with interest.

5) Thus, the right of the allottee to receive interest in respect of delay period under Section 18 is absolute and unqualified. If there are any mitigating circumstances in favour of the promotor, the same may assist the promotor in defending action for compensation. So far as payment of interest for delayed period is concerned, the same is bare minimum that a promotor must pay to the allottee under Section 18 of the RERA Act.

6) In view of the above discussion, I do not find any valid ground to interfere in the impugned orders passed by the Regulatory Authority and the Appellate Tribunal. No substantial question of law is involved in the Appeal. The Appeal is accordingly **dismissed**. In view of dismissal of the Appeal, nothing survives in the Interim Application and the same stands **disposed of**.

7) After the order is pronounced, the learned counsel appearing for the Appellant prays for continuation of ad-interim relief granted by order dated 20 March 2023. The request is opposed by the learned counsel appearing for allottees. Considering the nature of findings recorded while dismissing the Second Appeal, I am not inclined to continue the ad-interim relief in favour of the Appellant. The request is accordingly rejected.

[SANDEEP V. MARNE, J.]