

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 3623 of 2020

(Arising out of SLP (C) No 11946 of 2020)

**Mantri Castles Pvt Ltd Now known as
Castles Vista Pvt Ltd & Ors**

...Appellant(s)

Versus

R V Prasannakumaar & Ors

...Respondent(s)

ORDER

1 Leave granted.

2 On 11 February 2019, while disposing of a batch of civil appeals¹, this court issued the following directions:

- “(i) The liability of the developer to pay interest at the rate of 6 per cent per annum shall continue to operate until the date on which each of the respective flat purchasers is offered possession;
- (ii) The order passed by the NCDRC confining the award of interest for the period from 1 February 2014 to 31 July 2016 is modified in terms of the directions issued in clause (i) above;
- (iii) The NCDRC in execution of the impugned order as modified by the present order, shall verify with reference to each flat purchaser the date on which an offer of possession has been made. The liability to pay interest at the rate of 6 per cent per annum shall cease on the date when an offer of possession has been made to each of the flat purchasers.”

1 Civil Appeal No 1232 of 2019 and Civil Appeal Nos 1443-1444 of 2019

- 3 The above appeals arose before this court from a decision of the National Consumer Disputes Redressal Commission² dated 8 June 2018 in a consumer complaint filed in a representative capacity under Section 12(1)(c) of the Consumer Protection Act 1986. The NCDRC held the complainant - flat purchasers to be entitled to compensation for delayed possession from 1 February 2014 till 31 July 2016 in terms of the agreed rate of Rs 3 per sq ft per month. In addition, interest at the rate of 6% was granted from 1 February 2014 to 31 July 2016 on the amounts deposited by the flat purchasers before the due date of possession (31 January 2014).
- 4 Assailing the above order, appeals were filed both by the flat purchasers and by the developer. By its judgment dated 11 February 2019, this court specifically came to the conclusion that the NCDRC was not justified in holding that the liability to pay interest ceased to operate on 31 July 2016. In arriving at this conclusion, this Court observed from the record that the developer had, as a matter of fact, declined to hand over possession on the ground that the flat purchasers were espousing their remedies before the NCDRC. While disagreeing with the submissions of the developer and the finding of the NCDRC that the liability to pay interest ceased on 31 July 2016, the directions, as quoted above, were issued by this court in its judgment.
- 5 After the judgment of this court, the NCDRC has, in an execution application, rendered its impugned decision dated 17 August 2020. The NCDRC has, in paragraph 13 of its judgment, recorded a tabular statement of the dates on which offers of possession were made to 39 complainants and has directed the payment of interest at 6% per annum from 1 February 2014 to the dates on which the offers of possession were made to the purchasers. The matter comes in appeal.

2 “NCDRC”

- 6 Mr S Guru Krishnakumar, learned Senior Counsel appearing on behalf of the appellants, submits that by the order of this Court, the NCDRC was actually required to verify, with reference to each flat purchaser, the date on which the offer of possession was made and it was clarified that the liability to pay interest at the rate of 6% per annum shall cease on the date when an offer of possession has been made to each of the flat purchasers. The learned Senior Counsel submitted that, as a matter of fact, several of the 39 complainants had defaulted in the payment of their outstanding dues and in which event in terms of the order of this Court, they would not have been entitled to the grant of interest. It has been submitted that this exercise has not been carried out by the NCDRC.
- 7 Opposing the submissions of developer, Mr Bhattacharyya, learned counsel appearing on behalf of the respondents, submits that the order of this Court dated 11 February 2019, records the submission of the flat purchasers that, as a matter of fact, the flat purchasers had paid 95% of the consideration while the balance 5% was due and payable only at the time of the delivery of possession by way of the final instalment. This emerges from the extract of the previous order of this Court dated 1 February 2019, which has been set out in the judgment of this Court dated 11 February 2019. On this basis, it has been submitted that, as a matter of fact, each of the 39 complainant - flat purchasers had paid the entire outstanding dues, except for the final payment which was due at the time of possession.
- 8 The only issue which now survives for determination is the correctness of the submission which has been made on behalf of the flat purchasers that they had made the entire payment to the developer, save and except for the final payment which was due and payable in terms of the agreements at the time of the delivery of possession. In our view, this is a matter which should be verified so as to put a seal on the controversy once and for all.

- 9 During the course of the hearing, it has been agreed between the appellants, represented by Mr S Guru Krishnakumar, learned Senior Counsel and the respondents represented by Mr Bhattacharyya, learned counsel that this exercise of verification may be entrusted to Mr R V Easwer, Senior Counsel. It has been agreed by the parties that the verification by Mr Easwer shall be final and binding and shall not be called into question by any of the parties.
- 10 The parties have agreed to the aforesaid arrangement so that actual amount which is due and payable is calculated in terms of the directions which have been issued by this court on 11 February 2019. We accordingly issue the following directions, by consent:
- (i) Mr R V Easwer, Senior Counsel, is appointed as a Commissioner to verify, in terms of the order passed by this Court on 11 February 2019, with reference to each flat purchaser, the date until which the liability to pay interest at 6% per annum shall continue to subsist. The Commissioner shall in making the determination be guided by the following :
- (a) The dates on which possession has been offered to the flat purchasers will be as tabulated in the impugned order of the NCDRC dated 17 August 2020;
- (b) Flat purchasers who had made the payments due to the developer in terms of their flat purchase agreements, save and except for the final payment which was payable at the time of the handing over of possession, would be entitled to the payment of interest at the rate of 6% per annum, as directed in terms of the previous order of this Court dated 11 February 2019 and compensation;

- (c) The issue as to whether only the payment of the final instalment against possession remained due and payable to the developer by each of the complainant - purchasers shall be determined on the basis of the provisions contained in the agreements with the flat purchasers; and
- (d) The determination shall be carried out on a verification of the statement of accounts to be furnished to the Commissioner;
- (ii) The parties shall, within a period of three weeks from the date of receipt of a certified copy of this order, provide their respective statements account to the Commissioner. The Commissioner is requested to make his final determination preferably within a period of 45 days thereafter;
- (iii) The remuneration which is payable to the Commissioner for carrying out the assignment shall be fixed by the Commissioner and shall be borne equally by both the sides. The determination by the Commissioner of the amounts, if any, due and payable by the developer to each purchaser shall be binding on both the parties and shall not be called into question;
- (iv) The appellants shall deposit the amounts quantified by the Commissioner before the NCDRC within a period of two months from the date of the issuance of the determination by the Commissioner, failing which the order of the Commissioner shall become executable forthwith in terms of the present order, before the NCDRC.
- 11 The appeal stands disposed of in the above terms.

12 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Indu Malhotra]

.....J.
[Indira Banerjee]

**New Delhi;
November 03, 2020**

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ITEM NO.6 Court 4 (Video Conferencing)

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).11946/2020

(Arising out of impugned final judgment and order dated 17-08-2020 in EA No. 281/2018 passed by the National Consumer Disputes Redressal Commission, New Delhi)

MANTRI CASTLES PVT. LTD. NOW KNOWN AS
 CASTLES VISTA PVT. LTD. & ORS.

Petitioner(s)

VERSUS

R.V. PRASANNAKUMAAR & ORS.

Respondent(s)

(WITH IA No.101884/2020-ADDITION / DELETION / MODIFICATION PARTIES)

Date : 03-11-2020 This petition was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
 HON'BLE MS. JUSTICE INDU MALHOTRA
 HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s) Mr. S. Guru Krishna Kumar, Senior Advocate
 Mr. Shekhar G Devasa, Adv.
 Mr. Manish Tiwari, Adv.
 Mr. Luv Kumar, Adv.
 For M/S. Devasa & Co.

For Respondent(s) Mr. Chandrachur Bhattacharyya, Adv.
 Mr. Sahil Tagotra, AOR

UPON hearing the counsel the Court made the following
O R D E R

- 1 Leave granted.
- 2 The appeal is disposed of in terms of the signed order.
- 3 Pending application stands disposed of.

(SANJAY KUMAR-I)
 AR-CUM-PS

(SAROJ KUMARI GAUR)
 COURT MASTER

(Signed order is placed on the file)