



**PUNJAB REAL ESTATE REGULATORY AUTHORITY**  
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No.RERA.PB.2020/ENF/22  
 Dated : 17.09.2020

### CIRCULAR

The question of exact rate of interest payable by a promoter to the allottee, or vice versa, under the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) has been under consideration of the Authority for some time. In this regard Rule 16 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the Rules) reads as follows:-

*"16. Interest payable by the promoter and the allottee.- The rate of interest payable by the promoter to the allottee or by the allottee to the promoter, as the case may be, shall be the State Bank of India highest Marginal Cost of Lending Rate plus two percent:*

*Provided that in case the State Bank of India Marginal Cost of Lending Rate is not in use, it would be replaced by such bench mark lending rates which the State Bank of India may fix from time to time for lending to the general public."*

2. It has been seen that the State Bank of India's Highest Marginal Cost of Lending Rate (MCLR) is generally reviewed and revised on a monthly basis. If the interest to be paid by the promoter or the allottee were also to be held to vary with every such revision it would be extremely difficult to calculate the total amount to be paid because various rates of interest would have to be applied from time to time. It would also be unrealistic to expect the authorities such as the District Collectors to check on the prevalent MCLR while effecting recovery of amounts as arrears of land revenue. On the other hand, it is also seen that in an era of declining interest rates, adopting a single MCLR might result in a party getting less interest than would be the case if the various rate of interest of MCLR were to be adopted from time to time.

3. The matter was accordingly considered in the 12<sup>th</sup> Meeting of the Authority held on 15.06.2020 and it was decided that the judicial pronouncements on the subject may be studied to arrive at a correct decision in the matter. Accordingly the following orders of various authorities have been consulted:

**I. Real Estate Appellate Tribunal (REAT)**

- a. Magic Eye Developers Pvt. Ltd. Vs. Rajneesh Arora  
Appeal No.208 of 2019, D/D: 17.12.2019, Haryana REAT
- b. Bhoomi and Arcade Associate Aeropolis Vs Alistair Gomes  
Appeal No. AT 5000000010880, D/D: 20.08.2019, Maharashtra REAT

**II. National Company Law Appellate Tribunal**

Prithvi Raj Kasana Vs Kapil Arora & ors.  
Company Appeal (AT) (Insolvency) No.211 of 2019

**III. National Consumer Dispute Redressal Commission**

- a. Gitu Gidwani Verma and Ors Vs Pioneer Urban Land and Infrastructure Ltd. (2019(2) CLT 334)
- b. Vishal Malhotra and Anr Vs M/s Parsvnath Developers Ltd. & Anr  
(2019(1) C.P.J. 456: 2019(3) CLT 378)
- c. Santosh Kataria Vs Paarsavnath Hessa Developers Pvt. Ltd and anr  
(2019(2) C.P.R. 889)

**IV. Bombay High Court**

Nirman Realtors & Developers Ltd. Vs Vasant Ramakrishna Dhamale  
Second Appeal (ST) No.1464 of 2020, D/D ; 11.02.2020

**V. Supreme Court**

Bikram Chatterji & ors Vs Union of India and ors Writ Petition (S)  
(Civil) No.(s): 940/2017 - (Interim order – 25.08.2020)

It is seen that in all the above cases relief has been granted on the basis of a particular, single rate of interest applicable on the date of passing of the relevant order.

4. The matter has been considered in the light of the above and it has been decided that the interest payable under Rule 16 of the Rules would be the State Bank of India's highest Marginal Cost of Lending Rate prevalent on the date of passing of the order regarding payment of interest plus 2%.

5. Compliance with the above may be ensured by all concerned.

  
**(Navreet Singh Kang)**  
**Chairperson**