

# Flat buyers entitled to compensation for delayed possession: SC

**RULING** Builders to pay up for failure to fulfil amenity promises

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**NEWDELHI:** The Supreme Court on Monday held that the flat buyers are entitled to compensation for “delayed handing over of possession” and for the failure of the developer to fulfil their promises with regard to amenities.

The top court set aside the verdict of the National Consumer Disputes Redressal Commission (NCDRC) which, on July 2, 2019, had dismissed the complaints of 339 flat buyers by holding that they were not entitled to the compensation in excess of what was stipulated in their flat purchase agreements for delayed possession and the lack of assured amenities.

The purchasers had booked residential flats with DLF Southern Homes Pvt Ltd, now known as Begur OMR Homes Pvt. Ltd, in a project called Westend Heights at New Town, DLF, BTM Extension at Begu, Bengaluru. The project was being developed in an area admeasuring 27.5 acres and was to consist of 1980 units, spread across nineteen towers each consisting of a stilt and eighteen floors. They had moved the NCDRC seeking compensation on account of delay in handing over possession of the flats, reimbursement of taxes and interest charged to the flat purchasers under the agreement, deficiency in providing amenities, levy of electricity charges by the developer and failure to construct the club house. The NCDRC had held



■ **The bench said flat owners are entitled to compensation in excess of the amount stipulated in agreements.** REPRESENTATIVE IMAGE/HT FILE

that delay in the handing over of flats to the purchasers was admitted, but the agreements had provided compensation at the rate of Rs 5 per square foot of the super area for every month of delay.

The NCDRC had also held that the flat purchasers who agreed to this stipulation in the agreements were not entitled to seek any amount in addition.

“We have come to the conclusion that the dismissal of the complaint by the NCDRC was erroneous. The flat buyers are entitled to compensation for delayed handing over of possession and for the failure of the developer to fulfil the representations made to flat buyers in regard to the provision of amenities.

“The reasoning of the NCDRC on these facets suffers from a clear perversity and patent errors of law which have been noticed in the earlier part of this judgment. Allowing the appeals

in part, we set aside the impugned judgment and order of the NCDRC dated July 2, 2019 dismissing the consumer complaint,” a bench of Justices D Y Chandrachud and K M Joseph said in its 53-page judgment.

The bench said the flat owners are entitled to the compensation in excess of the amount stipulated in their agreements with the developers. The compensation amount shall be computed on the total money paid towards the purchase of the respective flats with effect from the date of expiry of thirty-six months from the execution of the respective flat purchase agreements until the date of the offer of possession after the receipt of the occupation certificate, it said. The compensation amount shall be in addition to the money which has been paid over or credited by the developer at the rate of Rs 5 per square foot per month, it said.