

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 6

Dated 28th OCTOBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220330/0009289

COMPLAINANTS.....

**MR. VARUN KUMAR &
MRS. VEENA RAI
FLAT NO.F2, 1ST MAIN, 5TH CROSS
TK REDDY LAYOUT, BANASWADI
BANGALORE-560043.**

Vs

RESPONDENT.....

**SHRIRAM PROPERTIES PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.**

**SHRIPROP DWELLERS PRIVATE LTD
40/43, 8TH MAIN, 4TH CROSS
RMV Extension
SADASHIVA NAGAR
BANGALORE-560080.**

**(By Mr.Joseph Anthony, Advocate
& others, JSM Law Partners)**

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J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "SHRIRAM SUMMIT" developed by **SHRIRAM PROPERTIES PVT LTD** on Sy.No.80/1, 2, 3, 4, 84/6 & 7, 85/2, 87/2, 89/1 & 2, 121/1, 2, 3, Veerasandra Village & Hebbagodi Village, Attibele, Anekal Taluk, Bengaluru Urban-562107 for the relief of interest on delay.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/308/PR/171015/001121 valid till 31/12/2019.

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The Authority has extended its registration for a further period of 12 months i.e. till 31/12/2020. The project was extended due to Covid-19 for a period of 9 months till 30/09/2021.

Brief facts of the complaint are as under:-

3. The complainants had purchased an apartment in the project of respondent and entered into an agreement of sale on 05/05/2018 and has paid an amount of Rs.47,99,144/- (Rupees Forty Seven Lakh Ninety Nine Thousand One Hundred and Forty Four only) and have subsequently paid Rs.4,30,691/- to the respondent. The respondent was supposed to hand over the possession of the flat to the complainants by 31/12/2019. The Occupancy Certificate was obtained from BDA on 7/5/2022 and the actual possession of the flat was given to the complainants on 20/7/2022 the date on which the Sale Deed was registered. The respondent contends that the delay was due to NGT/SC issue, but it was never informed to the complainants. The issue was informed to the complainants only on 27th December 2019, as such, the respondent failed to deliver the possession of the flat on time as agreed. The complainants were compelled to live in a rented house paying huge rent all through the delayed years. The complainants have also sent several emails, met the respondent in person to request handover the apartment on time. Hence, the respondent is liable to pay interest on delay period.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and has filed statement of objections as under:
5. The Respondent contends that the complainants are not entitled for seeking relief sought in light of the Agreement of Sale dated 05/05/2018 and submits that the delay in completion of the project was attributed to the

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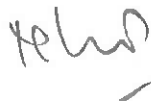
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pending litigations against the respondent before the Hon'ble National Green Tribunal in O.A.No.222/2014 as well as before the Hon'ble Supreme Court in Civil Appeal No.5016/2016 benches regarding maintenance of buffer zones where the apartment allotted to complainants in respect of the project was situated and on conclusion of the cases in Hon'ble NGT and Hon'ble Supreme Court, the construction proceeded. The respondent submits that on receipt of the Occupancy Certificate on 7/5/2022, the same was informed to the complainants on 30/5/2022.

6. The respondent submits that the project has not been completed within stipulated time due to force majeure events such as, scarcity of raw materials, non-availability of skilled labours, transport disruption or such reasons beyond the control of the respondent, and the respondent cannot be held liable to compensate the complainant under section 18(1) of RERA Act. In addition COVID-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondent. The respondent contends that there is no willful delay or default by the respondent in handing over the possession of the apartment to the complainants and continues to remain committed to delivering the possession to its customers. The respondent denies the allegations of the complainants and submits that the delay has been caused as a result of factors beyond the control of the respondent such as the ruling of the NGT and force majeure of the pandemic. The respondent further submits that the impact of the ruling of the NGT, New Delhi was common knowledge as the same had been extensively published in the media and the newspapers as the same was widely covered in public knowledge and prays not to grant the relief sought by the complainants in the interest of justice and equity.



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7. In support of their defence, the respondent has submitted copies of the Occupancy Certificate dtd 7/5/2022, Agreement for Sale dated 5/5/2018, Order dated 4/5/2016 passed by the Hon'ble National Green Tribunal in O.A.No.222/2014, Order dated 5/3/2019 passed by the Hon'ble Supreme Court in Civil Appeal No.5016/2016, Sanctioned Plan demonstrating the location of the project vis-à-vis the tertiary nala flowing through, email communication with complainants, RERA registration certificate, Sale Deed dated 20/7/2022 and memo of calculation as on 13/10/2022.
8. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale, Statement of Account issued by the respondent regarding payments received from the complainants and memo of calculation as on 29/6/2022.
9. Heard arguments of both sides.
10. **On the above averments, the following points would arise for my consideration:-**
 1. Whether the complainants are entitled for the relief claimed?
 2. What order?
11. **My answer to the above points are as under:-**
 1. In the Affirmative.
 2. As per final order for the following

REASONS

12. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement for sale to handover the apartment within 31/12/2019, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainants till 20/7/2022.

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13. During the process of the hearing the Authority directed the respondent to furnish information regarding the date of detailed sanctioned plan, date of start of NGT litigation, date of order of Hon'ble NGT/Supreme Court, date of sale of apartment to the complainants, whether the complainants/customers were kept informed about the litigation existing at the time of sale of agreement, whether they had kept the RERA Authority informed about this litigation at the time of registration.
14. The respondent have not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainants/customers about the ongoing dispute despite knowing the fact that the Hon'ble NGT order could delay their project. At the time of registration in RERA, the respondent could have taken longer time for completion or could have changed their building plan. The respondent's contention that the ruling of the NGT, New Delhi had been extensively published in the media and newspapers and that the buyer ought to have been aware about the ruling of the NGT, New Delhi is not acceptable. The onus is on the promoter to open all their cards at the time of sales and not to keep the customers in dark.
15. The complainants vide their memo of calculation as on 29/6/2022 have claimed an amount of Rs.11,57,370/- as delay period interest calculated from 31/12/2019 to 29/06/2022. The respondent vide his memo of calculation as on 13/10/2022 has submitted that the delay period interest payable to the complainants is Rs.9,65,404/- (calculated from 31/12/2019 till 7/5/2022) which is not acceptable. There is no dispute over the principal amount paid and received by both the parties. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/12/2019 to 20/7/2022.

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16. Therefore, it is incumbent upon the respondent to pay interest on delay as determined as under

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	47,99,144	31-12-2019
2	SUBSEQUENT PAYMENT 1	4,30,691	22-10-2021
3	TOTAL PRINCIPLE AMOUNT	52,29,835	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 4,799,144						
1	31-12-2019	31-01-2020	31	8.2	10.2 as on 10-12-2019	41,575
2	31-01-2020	29-02-2020	29	8.2	10.2 as on 10-01-2020	38,892
3	29-02-2020	29-03-2020	29	8.1 5	10.15 as on 10-02-2020	38,702
4	29-03-2020	29-04-2020	31	8.0 5	10.05 as on 10-03-2020	40,963
5	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	38,261
6	29-05-2020	29-06-2020	31	7.5 5	9.55 as on 10-05-2020	38,925
7	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	36,683
8	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	37,906

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9	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	37,906
10	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	36,683
11	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	37,906
12	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	36,683
13	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	37,906
14	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	36,683
15	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	34,238
16	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	37,906
17	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	36,683
18	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	37,906
19	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	36,683
20	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	37,906
21	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	37,906
22	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	36,683
23	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	37,906

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24	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	36,683
25	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	37,906
26	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	37,906
27	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	34,238
28	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	37,906
29	28-04-2022	28-05-2022	30	7.3	9.3 as on 15-03-2022	36,683
30	28-05-2022	28-06-2022	31	7.3	9.3 as on 15-03-2022	37,906
31	28-06-2022	29-06-2022	1	7.3	9.3 as on 15-03-2022	1,222
INTEREST CALCULATION FOR 1 SUBSEQUENT PAYMENT 430,691						
1	22-10-2021	22-11-2021	31	7.3	9.3 as on 15-10-2021	3,401
2	22-11-2021	22-12-2021	30	7.3	9.3 as on 15-11-2021	3,292
3	22-12-2021	22-01-2022	31	7.3	9.3 as on 15-12-2021	3,401
4	22-01-2022	22-02-2022	31	7.3	9.3 as on 15-01-2022	3,401
5	22-02-2022	22-03-2022	28	7.3	9.3 as on 15-02-2022	3,072
6	22-03-2022	22-04-2022	31	7.3	9.3 as on 15-03-2022	3,401
7	22-04-2022	22-05-2022	30	7.3	9.3 as on 15-03-2022	3,292

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8	22-05-2022	22-06-2022	31	7.3	9.3 as on 15-03-2022	3,401
9	22-06-2022	29-06-2022	7	7.3	9.3 as on 15-03-2022	768
					TOTAL DELAYED INTEREST as on 29/06/2022	11,57,370

17. Accordingly, the point raised above is answered in the Affirmative.

18. **My answer to Point No.2:-** In view of the above discussion, I proceed to pass the following order –

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/220330/0009289** is hereby allowed. Respondent is directed to pay a sum of **Rs.11,57,370/- (Rupees Eleven Lakh Fifty Seven Thousand Three Hundred and Seventy only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 31/12/2019 till 29/06/2022. The interest due from 30/06/2022 till 20/7/2022 will be calculated likewise and paid to the complainants. The complainants are at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.


(Neelmani N Raju)

Member-2, K-RERA

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