

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 NOVEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/200702/0006106

COMPLAINANT.....

**MR. ATUL KUMAR AGGARWAL
S/O MADANLAL AGGARWAL
FLAT NO.9032, TOWER 9
PRESTIGE TRANQUILITY
BOMMENAHALLI
BANGALORE-560049.**

(By Sri.Abheek Saha, Advocate)

Vs

RESPONDENT.....

**SHRIVISION TOWERS PVT LTD
40/43, 8TH MAIN, 4TH CROSS
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 GREENFIELD PHASE 1" developed by **SHRIVISION TOWERS PVT LTD** on Sy.No.73/1, 73/2A, 74(P) & 81, Bommenahalli Village, Bidarahalli Hobli, Bangalore East Taluk, Hoskote, Bengaluru Rural District for the relief of interest on delay period.

2. This project has been registered under RERA bearing Registration No. PRM/KA/RERA/1250/304/PR/171014/001213 valid till 31/3/2019. The Authority has further extended its registration for a further period of 12 months i.e. till 30/03/2020.



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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Brief facts of the complaint are as under:-

3. The complainant had purchased an apartment B-702 in the project of respondent and entered into an agreement of sale and construction agreement on 22/04/2015 and has paid an amount of Rs.46,92,325/- (Rupees Forty Six Lakh Ninety Two Thousand Three Hundred and Twenty Five only) to the respondent as on 31/12/2017. The respondent was supposed to hand over the possession of the flat to the complainant by 31/12/2017 with the grace period of six months i.e. by 30/6/2018. The respondent did not complete the project on time. The complainant was given possession of the apartment on 21st February 2020. The possession was given after more than two years and most of the amenities are yet to be completed. The complainant also came to know that the title of land is not clear and there is a litigation pending before 3rd Addl. Senior Civil Judge Court at Bengaluru Rural vide O.S.No.474/2018. The respondents had never disclosed about this pending litigation in the court to the complainant. The complainant requested the respondent to pay delay period interest till the date of completion including amenities with occupancy certificate, completion certificate etc. Thus the respondent is liable to pay interest on delay period till today. Hence, this complaint.

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 complainant is not entitled for seeking relief sought in light of the Agreement of Sale dated 22/04/2015 and submits that the delay in completion of the project was due to force majeure conditions such as, demonetization, 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



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

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section 18(1) of RERA Act. The respondent contends that there is no willful delay or default by the respondent in handing over the possession of the apartment to the complainant and he continues to remain committed to delivering the possession to its customers on time. The Occupancy Certificate in fact was received from the Competent Authority i.e. from Mandur Village Panchayat office on 1/8/2019, which was duly intimated to the complainant through email dated 15/10/2019 to the effect that the process for the registration of the property will be scheduled shortly. The complainant was also requested to furnish KYC details and copy of the Aadhaar Card for preparing the Sale Deed for registration. However, the complainant did not respond to his mails. The respondent also sent Demand Note seeking remittance of balance amount through email dated 1/2/2020 as the complainant had to pay the balance sale consideration along with other dues as per agreement of sale to the tune of Rs.5,60,319/-. The respondent submits that the litigation pending before the III Additional Senior Civil Judge, Bangalore Rural District court, the parties to the suit have filed Memorandum of Compromise Petition before the court to decree the suit in accordance with the Compromise Petition and that the case was posted for hearing on 31/3/2020. The respondent further submits that the matter was taken up before Lok Adalath on 25/6/2022 and the joint memo filed by the plaintiff and defendants was accepted by the court and the suit came to be decreed. Though the respondent was not inclined to hand over the possession of the apartment without receiving the balance amount due from the complainant, the respondent, on the request put forth by the complainant and on the confirmation that the complainant will co-operate and endeavor to fulfill his obligations to complete the process of registration of the Sale Deed and pay balance amount due along with the maintenance charges within a period of 15 days, handed over the possession of the said apartment to the complainant on 21/2/2020 on humanitarian grounds under acknowledgement for conditional possession. The complainant has also signed an acknowledgement in the form of



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,
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a possession letter for the conditional handover of the apartment and agreed that the formal possession of the unit would be processed upon the execution and registration of the Sale Deed. The complainant was also requested to furnish KYC details and copy of Aadhaar Card to prepare the sale deed through email dated June 21, 2022 and to come forward for executing and registering the Sale Deed. Despite communications sent by the respondent, the complainant failed to come forward to register the Sale Deed in respect of the said Apartment, instead the complainant chose to file a complaint before this Hon'ble Authority seeking compensation on groundless allegations and continuing the delay of registration of Sale Deed. The respondent most respectfully deny the entire allegations of the complainant and pray not to grant the relief sought by them in the interest of justice and equity and to dismiss the complaint.

6. In support of their defence, the respondent has submitted copies of the Agreement of Sale dated 22/4/2015, construction agreement dated 22/4/2015, RERA registration and extension certificates, Occupancy Certificate dated 1/8/2019, complainant's acknowledgement for conditional possession dated 21/2/2020, email correspondences sent to the complainant and memo of calculation as on 13/10/2022.

7. In support of their claim, the complainant has produced documents such as copies of Agreement of Sale, Construction Agreement, Allotment letter dtd 19/11/2014, Demand Notes from Respondent, Customer statement of account dated 20/4/2020 issued by the respondent showing details of the payment received from the complainant, Payment Receipts, email correspondences between the complainant and respondent and memo of calculation as on 26/07/2022.

8. Heard arguments of both sides.

9. On the above averments, the following points would arise for my consideration:-



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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1. Whether the complainant is entitled for the relief claimed?
2. What order?

10. My answer to the above points are as under:-

1. In the Affirmative.
2. As per final order for the following

REASONS

11. My answer to Point No.1:- From the materials placed on record, it is apparent that as per agreement for sale the respondent was supposed to handover the apartment by 31/12/2017 with the grace period of six months i.e. latest by 30/6/2018 to the complainant. The respondent received Occupancy Certificate on 01/08/2019 from the competent authority i.e. Mundur Village Panchayat and informed the complainant accordingly through an email dated 15/10/2019. The respondent on the request of the complainant has handed over the possession of the apartment to the complainant on 15/2/2020 on humanitarian grounds and obtained acknowledgement for conditional possession. It is also evident from the written submission made by the respondent that the complainant was requested number of times through email to furnish KYC details and copy of Aadhaar Card for preparing Sale Deed and come forward for executing and registering Sale Deed in respect of his apartment. Despite which, the complainant did not pay the balance amount due to the respondent nor came forward to execute and register the Sale Deed in respect of his apartment. The complainant vide his memo of calculation as on 26/7/2022 has claimed an amount of Rs.21,23,447/- towards delay period interest calculated from 31/12/2017 to 26/7/2022. The respondent vide its memo of calculation as on 13/10/2022 have submitted that the delay period interest payable to the complainant is Rs.4,50,138/- calculated from 30/6/2018 till 01/08/2019. There is difference in the principal amount indicated by the respondent, whereas the customer statement of account dated 20/4/2020



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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issued to the complainant by the respondent reveals that the claim of the complainant as far as the principal amount is concerned is genuine. During the process of the hearing, the Authority observed that the complainant has deliberately delayed the execution and registration of the sale deed, despite intimation received from the respondent. **Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay interest for the period calculated from 30/06/2018 to 15/10/2019.**

12. 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	46,92,325	31-12-2017

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 4,692,325						
1	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018	40,302
2	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018	41,645
3	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018	41,645
4	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018	41,073
5	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018	42,642

48/15/19

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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6	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018	41,266
7	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018	42,841
8	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019	42,841
9	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	38,695
10	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	42,841
11	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	41,266
12	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	42,443
13	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	41,073
14	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	42,243
15	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	41,645
16	28-09-2019	15-10-2019	30	8.35	10.35 as on 10-09-2019	23,949
					TOTAL DELAYED INTEREST as on 15/10/2019	6,48,410

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

(Handwritten signature)

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14. 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/200702/0006106** is hereby allowed.

1. Respondent is directed to pay a sum of **Rs.6,48,410/- (Rupees Six Lakh Forty Eight Thousand Four Hundred and Ten only)** towards delay period interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 30/06/2018 till 15/10/2019.

2. The complainant is directed to pay the balance amount due to the respondent and execute/register the Sale Deed without any further delay/loss of time.

3. The complainant is liable to pay interest as per section 19(7) of the RERA Act, 2016 on the balance amount of Rs.5,60,319/- due to the respondent calculated at MCLR + 2% from 15/10/2019 to till date.


(Neelmani N Raju)
Member-2, K-RERA