

**BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA**

**K. Palakshappa, Adjudicating Officer,
Complaint No. CMP/181216/0001763**

Dated: 24th MAY 2019

Complainant : Arun Kumar
Flat no. C-401, Difer Kingdon,
Bentahalli village,
Bengaluru- 560049.

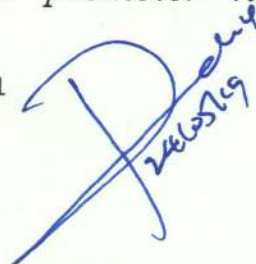
AND

Opponent : Shriram Green Filed Phase 1
Shrivation Tower Private Limited
No 40/43, 8th Main, 4th
Cross, RMV Extension,
Sadashiv Nagar,
Bengaluru -560080

J U D G E M E N T

1. Arun Kumar under complaint no. CMP/181216/0001763 has filed this complaint under Section 31 of RERA Act against the project "Shriram Green Filed Phase 1," developed by Shrivation Towers Private Limited as the complainant is the consumer in the said project. The fact of the case is as follows.

"We, Arun Kumar has entered into an agreement for construction in 2014 with the date of delivery on or before December 2017 with an additional grace period of 6 months (Clause 6.1). Upon request by us, the promoter has communicated maintained the flat will be in habitable condition by June 2018, in their mail dated December 17th 2018 (Copy Attached). The promoter has also cited



conditions like demonetization, trucker strike, shortage of input material and skilled labour for the delay. The arrangement of labor and input material is the responsibility of promoter, and nothing has been communicated anything to us till August 27th, 2018.

Relief Sought from RERA: To get an undertaking from the promoter for act.”

2. On 18/1/2019 the complainant was present the representative from developer also present.
3. One Naveen kumar representing the developer appeared and filed objection. At the time of argument it brought to my notice that the complainant is entitled for delay compensation from the date of agreement till June 2018 and at the same time it brought to my notice sale deed also executed.
4. As per the allotment letter on 6/1/2015 the Complainant has entered into agreement to purchase Apartment no. 906 in Tower E. In this regard on 11/3/2015 agreement of sale was executed. The developer has said that as per Clause 6 of construction agreement the developer was expected to complete Project on or before June 2018 including grace period. But in the RERA application developer given the Completion date as March 2019. In this connection Developer submitted that as per clause mentioned in the agreement the compensation has to be paid Rs. 4/ Sq.fit.
5. From the above proceedings it is clear that there is delay in completion of the Project. The complainant has produced the documents to prove this case. And also the complainant has produced the mail sent by the developer on 3/3/2018 wherein he says initiative date for delivery of unit could be September -2018. Another mail sent by the developer to the complainant on 27/8/2018 where in it is written as under:

Construction works on tower D E F are progressing steadily. The structural work, flooring, painting, doors & windows works in the tower are completed and electrical works are going on in these towers.

However, despite our best efforts, due to certain external factors beyond our control, like demonetization, nation wide truckers strike, including shortage of critical input materials and intermittent shortage of skilled labor, we are anticipating a revision in the handover timelines for the towers. Handovers for fit-outs in a phased manner shall now commence on or before Feb of 2019.

6. From the above mails exchanges it is clear that the project is not completed even in March 2019. In this connection the developer has undertaken to pay the delay compensation in his objection statement.
7. It is submitted that as per construction agreement clause for delay compensation we assure to compensate the same at the rate of Rs.4/- per Sq. ft/month as per construction agreement dated 11.03.2015 from July 2018 to till the date of hand over of apartment.
8. Being the case stand taken by the developer and the developer ready to pay delay compensation Rs. 4/-per Sq.ft is not correct because the payment of interest in the form of compensation has fixed in Rule 16. In view of the same the developer has to pay the delay compensation fixed as per Rule 16.

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24/05/19

Estates Pvt Ltd ie; a) Agreement to sell b) Construction Agreement c) Exit Option Memorandum of Understanding . As per the scheme of the builder (M/s.Skylark Mansions) the complainants has to communicate their option to exit within 30 months from the date of first loan disbursement from bank. The builder has promised to discharge the loan availed on the expiry of 35 months from the date of first disbursement. The builder has promised in the exit agreement to refund the advance amount of Rs.9,35,106/- and also pay Rs.7,08,635/- as opportunity cost. 2. The complainants has communicated their intention to exit to opposite party 2018.

Relief Sought from RERA: 1. Direct the M/ s.Skylark Mansions Pvt. Ltd., & M/s.I"

2. In pursuance of the summons issued by this authority the complainant was present on 24/01/2019. Sri Abhilash P.V advocate filed vakalat on his behalf. The developer was represented by advocate Smt. Lubna. Case was adjourned to 14/05/2019. On that day the developer has filed his objections.
3. Heard the arguments.
4. The complainant is seeking exit from the project under the Exit Option Agreement. The developer filed his objection to the same. According to the developer, the complainant is not entitled for the relief on the ground that the Adjudicating Officer has no jurisdiction to pass the order based on this kind of agreement. In this regard the developer has said in Para 3 of his objection statement which states as follows:

"It is submitted that the complainant has not made payments as per the schedule and the complaint filed with the sole intention of harassing the respondent and making illegal monetary gains at the cost of the respondent based on false, frivolous and vexatious contentions. It is submitted that all averments made by the complainant against the respondent are denied as false unless specifically admitted by the respondent herein."

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9. Before passing the final order I would like to say that as per section 71(2) of RERA the complaint shall be disposed off by the Authority within 60 days from the date of receipt of the complaint. This complaint was filed on 16/12/2018. As per SOP, 60 days shall be computed from the date of appearance of the parties. In this case the parties were present on 18/01/2019 and now there is little delay in completing the project Hence, I proceed to pass the following

ORDER

The Complaint filed by the complainant bearing No. CMP/281216/0001763 is allowed.

1. Directing the developer to pay delay compensation at the rate of 10.75%p.a on the amount paid by the complainant towards purchase of the flat commence from the July 2018 till the possession is delivered.
2. Further the developer shall also pay Rs. 5000/- as cost of the petition.

Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 24/05/2019).

K.PALAKSHAPPA
Adjudicating Officer