

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
**Karnataka Real Estate Regulatory Authority Bangalore**  
ನಂ:1/14, ನೆಲ ಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್,  
ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

**BEFORE ADJUDICATING OFFICER, RERA**  
**BENGALURU, KARNATAKA**  
**Presided by Sri K. PALAKSHAPPA**  
**Adjudicating Officer**  
**Date: 27<sup>th</sup> of JANUARY 2020**

Complaint No.	CMP/190920/0004245
Complainant	S.Harsha Kashyap G-0051, Brigade Panorama Kambipura Bengaluru - 560060
Opponent	Brigade Enterprises Ltd., 29 & 30 Floor, WTC Brigade Gateway, Rajajinagar Bengaluru- 560055

**“J U D G E M E N T”**

1. S.HARSHA KASHYAP, Complainant has filed complaint bearing complaint No.CMP/190920/0004245 under Section 31 of RERA Act against the project 'Brigade Panorama' developed by "Brigade Enterprises Ltd.," 'as the complainant is the consumer in the said project. The complaint is as follows:

Project deadline per agreement 31<sup>st</sup> Dec 2017. Grace period 6 months 30<sup>th</sup> June 2018. Flat handed over on 11<sup>th</sup> March 2019 total delay 8 months and 11 days. Compensation Rs.4 per sq.fr.per month. I have also purchased terrace garden area which is not being considered for delay compensation I am filing this complaint on 20<sup>th</sup> June 2019 and still I have not received the compensation.

*D. D. D. D.*  
27/01/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
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*Relief Sought from RERA :Speedy disbursal of compensation with interest*

2. In pursuance of the notice issued by this authority, the complainant was present in person. The developer has appeared through his representative and filed objections.
3. Hence, I have heard arguments and the matter was posted for judgment.
4. The points that arise for consideration is as to:  
Whether the complainant is entitled for delay compensation as prayed in his Compliant?
5. My answer is affirmative for the following

**REASONS**

6. This complaint has been filed by the complainant for delay compensation. When I gone through the complaint it is said that 30<sup>th</sup> June 2018 was the deadline given by the developer including six months grace period for completion of his project. According to the complainant the project is not yet completed and therefore, he is seeking delay compensation.
7. According to the developer he has already given possession of the unit on 11.03.2019 and compensation was paid to an extent of Rs.48,148/-. He has also states that Rs.4/- per sq.ft. has been calculated and the amount has been paid to the complainant. It means the developer has admitted that there is delay. He has calculated rate of compensation as per agreement by paying compensation amount @ of 4/- per sq.ft. per

*D*  
*27/01/2020*

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month. In spite of it, the complainant is seeking the compensation from the developer since he has alleged that he has not received the compensation. In this regard, the developer has said in his objection statement which reads as under:

Re-Point No.1: It is denied that the company has delayed in paying the delay compensation. It may be noted that on receiving delay compensation request from the complainant, the company has vide email dated 25.02.2019 informed the complainant that the delay compensation will be processed in 90 days. However, on 11.07.2019 the complainant vide email requested the company to share details of refund before crediting the delay compensation amount. The company on the same day has shared compensation details with the complainant. After seeking the delay compensation details, the complainant raised the issue of terrace area to be included for computation of delay compensation. The company has clarified that as per clause 6.4 of the agreement, delay compensation will be calculated on the super built up area and as the private terrace does not form part of the super built up area, the same cannot be considered for computation of delay compensation.

It may be that the company as always willing to pay the delay compensation and it was the complainant who requested the company to put on hold the payment of delay compensation by raising queries and issues. Once the queries and issues raised by the complainant were clarified, the company has

*D. D. D.*  
22/07/2019

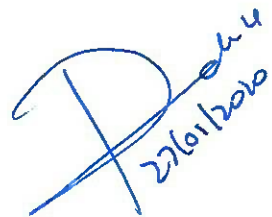
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processed and paid the delay compensation within a month. Therefore, the company has not delayed in payment of the delay compensation and as such, question of company being liable to pay interest n alleged delay in payment of compensation does not arise at all. The said email communications are annexed herewith for your kind reference and perusal.

Re-Para-2- As per clause 6.4 of the agreement private terrace area cannot be considered for computation of delay compensation. Hence, the question of compensation for terrace garden area along with the interest does not arise at all.

Re-Para-3- The complainant has not suffered mental agony and is not entitled to any amounts towards the same. The company has always clarified queries or issues raised by the complainant. Further, though the company is not liable to pay any delay compensation as per the agreement, the company has till gone ahead and paid the same as a good will gesture. Hence, the complainant has wrongly claimed that he has suffered mental agony, instead it is the company that is entitled to compensation towards false claims and manipulation of facts by the complainant.

  
27/01/2020

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8. Further the developer has said that as per the agreement the possession was to be delivered on or before 30/06 2018 including the grace period. But the possession was given on 11/03/2018 means there is a delay of 255 days for which Rs.48,148/- has been given. By looking in to the defence taken by the developer it is clear that he has calculated the delay compensation at the rate of Rs.4/- per sq.ft., which is not in accordance with S.18 of the Act. As per section 18 the delay compensation has to be paid at the rate of interest as prescribed in rule 16. The difference has to be paid by the developer.

9. From the claim made by the complainant and respondent it is clear that the complainant is seeking delay compensation based upon the measurement of the flat. But the delay compensation has to be determined not based upon the area of the unit but based upon payment made by the complainant. Therefore, the contention taken by the complainant regarding the terrace portion is baseless.

*[Handwritten signature]*  
27/04/2018

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10. 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. The said 60 days to be calculated from the date of appearance of the parties. In this case the parties have appeared on 13/11/2019 and case is being disposed off on today is with some delay. With this observation, I pass the following

**ORDER**

- a. The Complaint filed by the complainant bearing No. CMP/190920/0004245 is hereby allowed.
- b. The developer is hereby directed to pay delay compensation @ 2% above the MCLR of SBI commencing from 01/07/2018 till 10/03/2019 on the total amount paid by the complainant
- c. The developer is hereby directed to deduct the amount of Rs.48,148/- in the above said amount as stated in column b.

Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 27 /01/2020).

  
K. PALAKSHAPPA  
(Adjudicating Officer)