

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 21st AUGUST 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220803/0009847

COMPLAINANT.....

**KARTHIK DESH KULKARNI
NO.1038/1, 6TH CROSS
ADARSHA LAYOUT
MARUTHI COLONY, 3RD STAGE
BASAVESHWARANAGAR
BANGALORE-560079.**

**(BY MR. MUNIRAJA M,
ADVOCATE)**

Vs

RESPONDENTS.....

**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 SUMMITT**" 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,

Relus

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Veerasandra Village & Hebbagodi Village, Attibele, Anekal Taluk, Bengaluru Urban-562107 for the relief of interest on delay period.

2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/308/PR/171015/001121 valid till 31/12/2019. 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 complainant had purchased a flat bearing No.20.14.01 in 13th Floor, 20th Wing in Phase-3 in the project of the respondents and entered into an agreement of sale on 22/01/2018 and has paid an amount of Rs.59,23,195/- (Rupees Fifty Nine Lakh Twenty Three Thousand One Hundred and Ninety Five only) to the respondents as on 31/12/2019. The respondents were supposed to hand over the possession of the flat to the complainant by 31/12/2019. The complainant submits that the construction work was very slow and the respondents cited reason that it was due to Covid-19. The complainant submits that he has cleared all the payments on time and also attended meetings with the representatives of the respondents regarding delay compensation as per RERA. The complainant further submits that even after making full payments, the respondents are not ready to pay delay compensation which they had previously agreed.

4. The respondents have obtained Occupancy Certificate from BDA on 7/5/2022 and the actual possession of the flat was given to the complainant on 10/08/2022 the date on which the Sale Deed was executed. The respondents have failed to handover the possession of the flat to the complainant on time as agreed. Thus, the complainant has approached this



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Authority and prays for directions to the respondents to pay interest on delay period. Hence, this complaint.

5. After registration of the complaint, in pursuance of the notice, the respondents have appeared before the Authority through their counsel but have not filed any statement of objections nor produced any documents on their behalf.

6. The complainant in his written argument has submitted that he has been regularly paying PEMIs towards loan account in HDFC since the end date as per the Tripartite Agreement executed between the complainant, respondent and HDFC. The complainant further submits that there was a delay of more than 31 months (i.e. 10/8/2022) in executing the sale deed for the flat. The respondents have cited that the construction was delayed due to rocks beneath the soil and also water accumulations and that the excavation took longer time than estimated as there was restriction on usage of explosives and that the construction activity had to be stopped in the wake of order issued by Hon'ble NGT with regard to buffer zone.

7. The complainant submits that the respondents are not parties in both the order of the proceedings in O.A. No.222/2014 in Hon'ble NGT, New Delhi and Civil Appeal No.5016/2016.

8. The complainant submits that the agreement of sale was entered with the respondents in 2018, the project was registered as ongoing project in 2017 and the ruling of Hon'ble NGT, Delhi was in 2016. The complainant submits that the respondents did not inform either the Authority at the time of registration nor the complainant about NGT/Lake issue. The complainant prays the Authority to issue directions to the respondent to pay interest on delay period.

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9. In support of their defence, the respondents have submitted memo of calculation as on 20/06/2023.

10. In support of his claim, the complainant has produced documents such as copies of agreement of sale, customer statement of account dated 29/7/2022 issued by respondent, sale deed dated 10/08/2022 and memo of calculation as on 12/08/2023.

11. This matter was heard on 22/12/2022, 9/2/2023, 7/3/2023, 13/4/2023, 22/6/2023, 2/8/2023 and 17/8/2023. Heard arguments of both sides.

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

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

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

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

REASONS

14. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of accepting total sale consideration amount and entering into an agreement for sale to handover the flat within 31/12/2019, the respondents have failed to abide by the terms of the agreement and not handed over the possession of the flat to the complainant till 10/08/2022.

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15. During the process of the hearing the Authority perused the written submission submitted by the complainant.
16. The complainant submitted a plea for impleading M/s Shriprop Dwellers Private Limited as a respondent in the instant complaint. The Authority accepts the prayer accordingly.
17. The complainant vide his memo of calculation as on 12/08/2023 has claimed an amount of Rs.14,62,487/- as delay period interest calculated from 31/12/2019 to 10/08/2022, the date on which the sale deed was executed.
18. The respondents vide their memo of calculation as on 20/6/2023 have submitted that the delay period interest payable to the complainant is Rs.15,59,403/- (calculated from 31/12/2019 till 20/06/2023). The same is not accepted, as the cut-off date for calculation of interest on delay period would be the date of execution of the Sale Deed i.e. 10/08/2022.
19. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest from 31/12/2019 to 10/08/2022.
20. Therefore, it is incumbent upon the respondent to pay interest on delay period determined as under:-

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	59,23,195	31-12-2019
2	TOTAL DELAYED INTEREST as on 10/08/2022	14,62,487	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,923,195						
1	31-12-2019	31-01-2020	31	8.2	10.2 as on 10-12-2019	51,312

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2	31-01-2020	29-02-2020	29	8.2	10.2 as on 10-01-2020	48,002
3	29-02-2020	29-03-2020	29	8.15	10.15 as on 10-02-2020	47,766
4	29-03-2020	29-04-2020	31	8.05	10.05 as on 10-03-2020	50,558
5	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	47,223
6	29-05-2020	29-06-2020	31	7.55	9.55 as on 10-05-2020	48,042
7	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	45,275
8	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	46,785
9	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	46,785
10	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	45,275
11	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	46,785
12	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	45,275
13	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	46,785
14	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	45,275
15	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	42,257
16	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	46,785

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17	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	45,275
18	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	46,785
19	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	45,275
20	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	46,785
21	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	46,785
22	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	45,275
23	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	46,785
24	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	45,275
25	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	46,785
26	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	46,785
27	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	42,257
28	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	46,785
29	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	45,762
30	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	47,791
31	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	47,223

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32	28-07-2022	10-08-2022	13	7.8	9.8 as on 15-07-2022	20,674
					TOTAL DELAYED INTEREST as on 10/08/2022	14,62,487

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

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

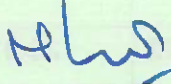
ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/220803/0009847** is hereby allowed.

Respondent is directed to pay a sum of **Rs.14,62,487/- (Rupees Fourteen Lakh Sixty Two Thousand Four Hundred and Eighty Seven only)** towards delay period interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 31/12/2019 till 10/08/2022.

The complainant is 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.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA