

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 22nd AUGUST 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.:CMP/UR/210803/0008203

COMPLAINANTS.....

**SANGEETHA &
UDAYA KUMAR
71/118, 3RD B CROSS
BANASWADI POST
NEXT TO SAI KEERTHI APARTMENTS
BANGALORE-560043.**

(BY MR. KOWSHIK RAJA G, ADVOCATE)

V/S

RESPONDENT.....

**RAJASHEKAR
ELEGANT PROPERTIES
ELEGANT DESIRE, 1ST FLOOR
NO.1, COLES ROAD
FRAZER TOWN
BANGALORE-560005.**

**(By Mr.H.S. HAYATH KHAN,
ADVOCATE)**

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "ELEGANT BRISTOL" developed by "M/S ELEGANT PROPERTIES" situated at 58/1, Ward No.88, 254, Doddabanasawadi Village, K.R.Puram Hobli, Bangalore South Taluk (PID No.88-12-58/1) Bangalore, Bengaluru Urban for the relief of interest on delay period and completion of the flat with basic amenities i.e. water, power, sewage connection as specified in the construction agreement.
2. This project has not been registered under RERA.




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Brief facts of the complaint are as under:-

3. The complainants have purchased a flat bearing No.C2, 2nd Floor in the project of the respondent by entering into an sale agreement and construction agreement on 12/07/2017 and have paid an amount of Rs.60,00,000/- (Rupees Sixty Lakh only) to the respondent on various dates. The complainants submit that the respondent was supposed to handover the flat within 12 months from the date of entering into construction agreement with a grace period of two months i.e. by 12/09/2018 and has failed to handover the flat as agreed. The complainants have submitted the current state of building with photographs, which is there for last 3 years without completion or possession of our flat despite repaying Bank Loan EMIs with interest. The respondent has handed over possession of the flat and executed sale deed on 4/7/2019 in favour of the complainants. The complainants submit that the respondent is harassing them with false promises, commitments. The complainants also submit that there is no electricity despite paying additional amount for connection, no provision for usage of water and sewage and no lift. Thus, the complainants have approached the Hon'ble Authority and pray for direction to the respondents for payment of interest on delay period and completion of flat with basic amenities like water, electricity and sewage connection. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through their counsel and have filed their statement of objections as under:
5. The respondent submits that this complaint has been filed with the intention of harassing the respondent. The respondent submits that the construction of the flat of the complainants has been completed as



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agreed and that the respondent had offered the complainants to get the sale deed registered and to take possession of the flat.

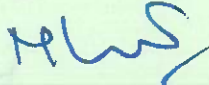
6. The respondent contends that the complainants have delayed in making the payments as scheduled and due to the respondent and therefore, the interest accrued thereon has to be paid by them as per RERA Act and Rules.
7. The respondent with regard to the relief sought by the complainants in their complaint submits that the Sale Deed has been executed and registered on 4/7/2019 and that the possession of the flat was handed over the same day. As such, the relief sought by the complainants does not survive and that the complainants are getting interior works in their flat by their men and machinery.
8. The respondent also contends that the allegation made by the complainants that they were harassed by the respondent is baseless.
9. The respondent submits that they had purchased the domestic power consumption meters from BESCO in 2018 itself and that they were installed individually in the apartment building and permanent RR Numbers has been issued to the allottees individually.
10. The respondent submits that they had also obtained road cutting permission from BBMP for connection of drinking water and sewage line and had successfully done both the connections. The respondent further submits that the lift has also been installed and refutes the allegations that there is no power, water and sewage connection in the building.
11. The respondent also submits that they had handed over the additional keys of the unit to the complainants under acknowledgement and that 70% of the residents are presently residing in the apartment. The respondent submits that despite Covid-19 and the restrictions



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- imposed by the State Government, the respondent has strived hard and completed the project.
12. The respondent submits that in February 2022, the Karnataka State Pollution Control Board issued notice to the respondent directing to establish a separate sewage treatment plant in the apartment and the respondent was obligated and compelled to establish the sewage treatment plant at an additional cost of Rs.65,00,000/- and that the respondent never sought or demanded any payment from the buyers. Thus the respondent prays this Hon'ble Authority not to grant relief sought by the complainants and to dismiss the complaint.
13. The complainants in their written submission have submitted that they got the electricity connection on their own efforts. The complainants submit that the respondent behaved with them in a disrespectful manner whenever they approached them.
14. The respondent in their defence has produced copy of Sale Deed and acknowledged copy of the letter dtd 30/8/2019 for having handed over keys. Despite opportunities were given, the respondent has not filed their memo of calculation.
15. The complainants have produced documents such as copies of Sale Agreement, Construction Agreement, 3 photographs showing the state of the flat, SBI Housing Loan statement, whatsapp message sent by respondent and memo of calculation as on 10/8/2023.
16. This matter was heard on 01/09/2022, 20/9/2022, 19/10/2022, 10/11/2022, 24/1/2023, 8/3/2023, 13/4/2023, 22/6/2023, 2/8/2023 and 17/8/2023. Heard arguments of both sides.
17. **On the above averments, the following points would arise for my consideration:-**
1. Whether the complainants are entitled for the relief claimed?



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2. What order?

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

1. In the Affirmative.

2. As per final order for the following:-

REASONS

19. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of receiving substantial total consideration amount and entering into an agreement for sale and construction agreement to handover the possession of the flat within 12/9/2018, the respondent has failed to abide by the terms of the agreement and not handed over the possession of the flat to the complainants till 4/7/2019, the date on which the sale deed was executed in favour of the complainants.

20. The Hon'ble Authority has perused the statement of objections filed by the respondent and written submissions submitted by the complainants.

21. During the process of the hearing, the complainants submitted a Memo seeking amendment in the relief sought to delay period interest instead of compensation. The Hon'ble Authority accepts the prayer accordingly.

22. The Hon'ble Authority has also noticed that the respondent in their statement of objections have stated that they have enclosed documents pertaining to electricity, water and sewage connections in the apartment, but have not produced any documents to substantiate their claim before the Authority. Hence, this Authority has disagreed with the contentions of the respondent.

23. Though the respondent has appeared before the Authority in response to the summons through their counsel, the respondent after submitting their statement of objections did not appear before the Authority during the



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hearings. In the absence of failure on the part of the respondent to produce any documentary proof on its behalf, this Hon'ble Authority concludes that the complainants are eligible for interest on delay period from 12/9/2018 till 4/7/2019, the date on which the sale deed was executed.

24. The complainants vide their memo of calculation as on 10/08/2023 have claimed an amount of Rs.23,79,883/- (Rupees Twenty Three Lakh Seventy Nine Thousand Eight Hundred and Eighty Three only) as interest on the delay period calculated from 12/7/2018 till 22/7/2022 which is not correct, because the complainants are entitled for interest on delay period from 12/09/2018 till 04/07/2019 the date on which the sale deed was executed. The respondent has not filed their memo of calculation despite several opportunities were given.

25. 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	60,00,000	12-07-2018
3	TOTAL DELAYED INTEREST as on 4/7/2019	6,25,688	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 6,000,000						
1	12-09-2018	12-10-2018	30	8.65	10.65 as on 01-09-2018	52,520
2	12-10-2018	12-11-2018	31	8.7	10.7 as on 01-10-2018	54,526
3	12-11-2018	12-12-2018	30	8.7	10.7 as on 01-11-2018	52,767
4	12-12-2018	12-01-2019	31	8.75	10.75 as on 10-12-2018	54,780

(Handwritten signature)

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5	12-01-2019	12-02-2019	31	8.75	10.75 as on 10-01-2019	54,780
6	12-02-2019	12-03-2019	28	8.75	10.75 as on 10-02-2019	49,479
7	12-03-2019	12-04-2019	31	8.75	10.75 as on 10-03-2019	54,780
8	12-04-2019	12-05-2019	30	8.7	10.7 as on 10-04-2019	52,767
9	12-05-2019	12-06-2019	31	8.65	10.65 as on 10-05-2019	54,271
10	12-06-2019	12-07-2019	30	8.65	10.65 as on 10-06-2019	38,514
11					TOTAL DELAYED INTEREST AS ON 4/7/2019	5,19,184

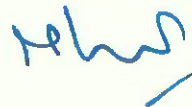
26. Accordingly, the point raised above is answered in the Affirmative.

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

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/UR/210803/0008203** is hereby allowed.

The respondent is directed to pay a sum of **Rs.5,19,184/- (Rupees Five Lakh Nineteen Thousand One Hundred and Eighty Four only)** towards interest on delay period to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 12/9/2018 to 04/07/2019, the date on which the sale deed was executed.



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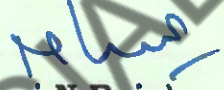
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The complainants are at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.

The respondent is also directed to ensure that regular power supply with individual meter, water and sewage connections are provided immediately.

The respondent is also directed to make efforts to get Occupancy Certificate at the earliest.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA