

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/221221/0010494

COMPLAINANT.....

**NARESH KUMAR GUNJALLI
H.NO. 7-6-158
SRI SUGURESHWARA NILAYA
OPP. VASAVI NAGAR BUS STOP
VASAVI NAGAR
RAICHUR-584103.
DISTRICT: RAICHUR
STATE: KARNATAKA**

(IN PERSON THROUGH SKYPE)

Vs

RESPONDENTS.....

**1.M/S.RAJA HOUSING LIMITED
F-2, RAJA MAHALAKSHMI
NO.12, BASAPPA ROAD
SHANTHINAGAR
BANGALORE-560027.**

**2. RAJA DATTA
3. RAJA SUCHINDRA
F-2, RAJA MAHALAKSHMI
NO.12, BASAPPA ROAD
SHANTHINAGAR
BANGALORE-560027.**

**(By MR. KASHYAP N NAIK,
MR.VIVEK B.R. & OTHERS, Advocates)**

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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 "RAJA RITZ AVENUE PHASE-II" developed by M/S.RAJA HOUSING LTD on Sy.No.184 and 185/1, Khata No.1088, Hoodi

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Karnataka Real Estate Regulatory Authority,

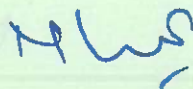
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Village, K.R.Puram Hobli, Bangalore East, Bangalore Urban for the relief of interest on delay period.

2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/446/PR/180524/001816 valid till 31/12/2021. The project was extended due to Covid-19 for a period of 9 months till 30/9/2022. The Authority has further extended the project till 30/9/2023.

Brief facts of the complaint are as under:-

3. The complainant has booked a flat bearing No.404, Fourth Floor, Block-1 in the project of the respondents for a total sale consideration of Rs.80,14,395/- (Rupees Eighty Lakh Fourteen Thousand Three Hundred and Ninety Five only) and entered into an agreement of sale on 28/01/2020. The complainant has paid an amount of Rs.72,12,959/- (Rupees Seventy Two Lakh Twelve Thousand Nine Hundred and Fifty Nine only) to the respondents on various dates. The respondents were supposed to handover the possession of the flat to the complainant within December 2021.
4. The complainant submits that the respondents have not completed the project yet even after getting covid extension of 9 months from RERA and have not paid delay period interest. The complainant submits that he has already paid 90% of the total sale consideration to the respondents. Thus, the complainant has approached this Authority to direct the respondents to pay the interest on delay period and to share expected time for completion of the project. Hence, this complaint.
5. After registration of the complaint, in pursuance of the notice, the respondents have appeared before the Authority through its counsel and have filed statement of objections as under:



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6. The respondents contend that they have completed more than 36 projects in Bangalore and Mysore and that there are no complaints raised against any of them except this project. The respondents submit that they have entered into JDA with the land owner and has developed the property in two phases wherein Phase-I consisting 220 Units and Phase-II consisting of 210 Units. The respondents also submit that they had also obtained all necessary sanctions and approvals from the regulatory authorities. The respondents submit that the complainant has booked flat bearing No.404, 4th Floor in Block-1 and entered into agreement for sale dated 28/01/2020.
7. The respondents submit that the delay in completion of the project was due to force majeure conditions such as, scarcity of raw materials, non-availability of skilled labourers, transport disruption or such reasons beyond the control of the respondent, increase in the cost of materials and the respondent cannot be held liable to compensate the complainant under section 18(1) of RERA Act.
8. In addition Covid-19 pandemic and the lockdowns imposed by the State Government have also contributed significantly to the obstacles faced by the respondents. The respondents submit that due to second wave of the pandemic the construction work in the project was stalled for a substantial period and that they were unable to even source the basic construction materials such as sand, cement, bricks, steel etc. The respondents submit that due to mass migration of labour during the pandemic they were unable to undertake speedy construction. The respondents contend that there is no wilful delay or default by the respondent in handing over the possession of the flat to the complainant and continues to remain committed to delivering the possession to its customers. The respondents also submit that



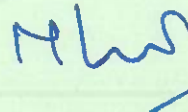
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after the lockdowns were relaxed and labour conditions normalized, the respondents have within a short time completed construction of the project.

9. The respondents further submit that most of the allottees defaulted in making scheduled payments including the complainant citing financial stress caused due to the pandemic which has directly attributed to the delay in completion of the project. The respondents contend that the delay occurred is completely unintentional.
10. The respondents further submit that the complainant himself has breached the terms of the agreement of sale by not paying the scheduled instalments and are claiming compensation for delay by the respondents. The respondents contend that in the event of extension granted by the Hon'ble Authority till 30/9/2023 for completing the construction, the complaint is premature and unfair.
11. The respondents also contend that the calculation worked out by the complainants is not correct. The respondents submit that the delay in handing over possession of the flat were not within the control of the respondents and prays the Authority to dismiss the complaint.
12. The complainants in their written submission have submitted that the flat was supposed to be handed over by December 2021 but till date the possession of the flat has not been handed over by the respondents.
13. In support of his claim, the complainant has produced documents such as copies of Agreement of Sale, payment receipts, email correspondences with the respondents and memo of calculation as on 14/03/2023.



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14. This case was heard on 15/3/2023, 6/6/2023, 13/7/2023 and 16/8/2023. Heard arguments of both sides.

15. **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?

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

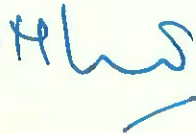
1. In the Affirmative.
2. As per final order for the following

REASONS

17. **My answer to Point No.1:-** It is undisputed that the respondents have failed to handover possession of the flat to the complainant herein within agreed time even after receiving substantial sale consideration amount from the complainant. As per the terms of agreement of sale between the parties, the possession of the flat was supposed to be handed over by December 2021.

18. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainant has paid substantial sale consideration amount to the respondents. Having accepted the said amount and failure to keep up promise to handover possession of the flat within stipulated time as agreed, certainly entitles the complainant herein for delay period interest.

19. The Hon'ble Authority has perused the statement of objections filed by the respondents. The Hon'ble Authority has not agreed with the contentions of the respondents made in their statement of objections.



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20. During the process of the hearing, the respondents verbally said that they are ready to handover possession of the flat after 15 days.
21. The complainant vide his memo of calculation as on 14/03/2023 has claimed an amount of Rs.7,57,461/- (Rupees Seven Lakh Fifty Seven Thousand Four Hundred and Sixty One only) calculated from 31/12/2021 to 14/03/2023 as delay period interest. Despite several opportunities were given, the respondents have not filed their memo of calculation.
22. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/12/2021 to until respondents handing over possession of the flat to the complainant.
23. Therefore, it is incumbent upon the respondents to pay interest for the delay period which is determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	56,10,075	31-12-2021
2	SUBSEQUENT PAYMENT 1	8,01,439	27-06-2022
3	SUBSEQUENT PAYMENT 2	8,01,445	06-10-2022
4	TOTAL PRINCIPLE AMOUNT	72,12,959	
5	TOTAL DELAYED INTEREST as on 14/03/2023	7,57,461	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,610,075						

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1	31-12-2021	31-01-2022	31	7.3	9.3 as on 15-12-2021	44,311
2	31-01-2022	28-02-2022	28	7.3	9.3 as on 15-01-2022	40,023
3	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	40,023
4	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	44,311
5	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	43,343
6	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	45,264
7	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	44,726
8	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	46,694
9	28-08-2022	28-09-2022	31	8	10.0 as on 15-08-2022	47,647
10	28-09-2022	28-10-2022	30	8	10.0 as on 15-09-2022	46,110
11	28-10-2022	28-11-2022	31	8.25	10.25 as on 15-10-2022	48,838
12	28-11-2022	28-12-2022	30	8.35	10.35 as on 15-11-2022	47,724
13	28-12-2022	28-01-2023	31	8.6	10.6 as on 15-12-2022	50,506
14	28-01-2023	28-02-2023	31	8.6	10.6 as on 15-01-2023	50,506
15	28-02-2023	14-03-2023	14	8.7	10.7 as on 15-02-2023	23,024
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 801,439						
1	27-06-2022	27-07-2022	30	7.7	9.7 as on 15-06-2022	6,389
2	27-07-2022	27-08-2022	31	7.8	9.8 as on 15-07-2022	6,670
3	27-08-2022	27-09-2022	31	8	10.0 as on 15-08-2022	6,806
4	27-09-2022	27-10-2022	30	8	10.0 as on 15-09-2022	6,587

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5	27-10-2022	27-11-2022	31	8.25	10.25 as on 15-10-2022	6,976
6	27-11-2022	27-12-2022	30	8.35	10.35 as on 15-11-2022	6,817
7	27-12-2022	27-01-2023	31	8.6	10.6 as on 15-12-2022	7,215
8	27-01-2023	27-02-2023	31	8.6	10.6 as on 15-01-2023	7,215
9	27-02-2023	14-03-2023	15	8.7	10.7 as on 15-02-2023	3,524
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 801,445						
1	06-10-2022	06-11-2022	31	8	10.0 as on 15-09-2022	6,806
2	06-11-2022	06-12-2022	30	8.25	10.25 as on 15-10-2022	6,751
3	06-12-2022	06-01-2023	31	8.35	10.35 as on 15-11-2022	7,045
4	06-01-2023	06-02-2023	31	8.6	10.6 as on 15-12-2022	7,215
5	06-02-2023	06-03-2023	28	8.6	10.6 as on 15-01-2023	6,516
6	06-03-2023	14-03-2023	8	8.7	10.7 as on 15-02-2023	1,879
					TOTAL DELAYED INTEREST as on 14/03/2023	7,57,461

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

25. **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/221221/0010494** is hereby allowed.

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The respondents are directed to pay a sum of **Rs.7,57,461/-** (**Rupees Seven Lakh Fifty Seven Thousand Four Hundred and Sixty One only**) towards delay period interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 31/12/2021 till 14/03/2023.

The interest due from 15/03/2023 until handing over possession of the flat by the respondents will be calculated likewise and paid to the complainant.

The complainant is at liberty to initiate action for recovery in accordance with law if the respondents fail to pay the amount as per the order of this Authority.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA

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