

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 22<sup>nd</sup> AUGUST 2023**

**PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU**

**COMPLAINT NO.: CMP/221221/0010508**

**COMPLAINANTS.....**

**ANIKET ASHOK VASTE &  
MONIKA ANIL KASTURE  
T2, GCN ENCLAVE  
SAI BABA TEMPLE ROAD  
16<sup>TH</sup> CROSS, GREEN GARDEN LAYOUT  
MUNNEKOLAL  
BENGALURU-560037.**

**(IN PERSON)**

**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)**

**\* \* \* \* \***

**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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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 complainants had booked a flat bearing No.310, Third Floor, Block-3 in the project of the respondents for a total sale consideration of Rs.85,61,154/- (Rupees Eighty Five Lakh Sixty One Thousand One Hundred and Fifty Four only) and entered into an agreement of sale on 18/3/2021. The complainants have paid an amount of Rs.77,05,036/- (Rupees Seventy Seven Lakh Five Thousand and Thirty Six only) to the respondents on various dates. The respondents were supposed to handover the possession of the flat to the complainants within September 2022.
4. The complainants submit that the respondents are demanding to pay instalment just saying that it is management's decision or otherwise delay charges will be levied. The complainants submit that as per version of home buyers in Phase-I of the same project, the respondents are charging higher rate of interest for delay payment. Thus, the complainants have approached this Authority to direct the respondents to pay the interest on delay period and to execute registration of the flat irrespective of the status of this complaint. Hence, this complaint.



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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:
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 complainants have booked flat bearing No.310, 3<sup>rd</sup> Floor in Block-3 and entered into agreement for sale dated 18/3/2021.
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



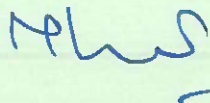
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or default by the respondent in handing over the possession of the flat to the complainants and continues to remain committed to delivering the possession to its customers. The respondents also submit that after the lockdowns were relaxed and labour 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 complainants 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 complainants themselves have 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 September 2022 but till date the possession of the flat has not been handed over by the respondents. The complainants submit that the respondents claim regarding delay in scheduled payments by the complainants is completely wrong and contend that the respondents should check the





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- demands raised by themselves and the actual date with grace period before which the demand is to be paid. The complainants have also furnished correct details in their written submission and have given reasons substantiating the delay in the payments.
13. The complainants submit that the respondents happily agreed to waive off the penalty for delay payment. The complainants also submit that they are ready to pay penalty for the delay in the payment to the respondents and similarly respondents are liable to pay penalty for delay in handing over the possession of the flat.
14. The complainants further submit that the respondents are asking the complainants to register the property and start interior work without occupancy certificate, basic facilities like power, water or parking facilities. The complainants submit that on receipt of email to register property on 3/5/2023, the complainants requested the respondents for an update on the above basic facilities, the respondents told that by the time the interior works are completed the facilities will be made available. The complainants submit that they are visiting the site frequently and even after 3 months there is no update.
15. The complainants submit that the cost of living has increased post pandemic and paying high rent and EMIs has become difficult. The complainants pray this Hon'ble Authority that the statement of objections filed by the respondents may be dismissed and issue directions to the respondents to pay delay period interest till the handing over possession of the flat with occupancy certificate.
16. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale, payment receipts,



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email correspondences with the respondents and memo of calculation as on 01/06/2023.

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

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

1. Whether the complainants are entitled for the relief claimed?
2. What order?

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

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

**REASONS**

20. **My answer to Point No.1:-** It is undisputed that the respondents have failed to handover possession of the flat to the complainants herein within agreed time even after receiving substantial sale consideration amount from the complainants. As per the terms of agreement of sale between the parties, the possession of the flat was supposed to be handed over by September 2022.

21. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainants have 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 complainants herein for delay period interest.

22. The Hon'ble Authority has perused the statement of objections and written submissions filed by the respondents and the complainants.



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

23. During the process of the hearing, the respondents verbally said that the handing over possession of the flats will happen shortly.
24. The complainants vide their memo of calculation as on 01/06/2023 have claimed an amount of Rs.5,18,475/- (Rupees Five Lakh Eighteen Thousand Four Hundred and Seventy Five only) calculated from 30/09/2022 to 01/06/2023 as delay period interest. Despite several opportunities were given, the respondents have not filed their memo of calculation.
25. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 30/09/2022 to until respondents handing over possession of the flat to the complainants.
26. 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	68,57,923	30-09-2022
2	SUBSEQUENT PAYMENT 1	8,47,113	31-12-2022
3	TOTAL PRINCIPLE AMOUNT	77,05,036	
4	TOTAL DELAYED INTEREST as on 01/06/2023	5,18,475	

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Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 6,857,923						
1	30-09-2022	30-10-2022	30	8	10.0 as on 15-09-2022	56,366
2	30-10-2022	30-11-2022	31	8.25	10.25 as on 15-10-2022	59,701
3	30-11-2022	30-12-2022	30	8.35	10.35 as on 15-11-2022	58,339
4	30-12-2022	30-01-2023	31	8.6	10.6 as on 15-12-2022	61,740
5	30-01-2023	28-02-2023	29	8.6	10.6 as on 15-01-2023	57,756
6	28-02-2023	28-03-2023	28	8.7	10.7 as on 15-02-2023	56,291
7	28-03-2023	28-04-2023	31	8.7	10.7 as on 15-03-2023	62,322
8	28-04-2023	28-05-2023	30	8.7	10.7 as on 15-04-2023	60,312
9	28-05-2023	01-06-2023	4	8.7	10.7 as on 15-05-2023	8,041
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 847,113						
1	31-12-2022	31-01-2023	31	8.6	10.6 as on 15-12-2022	7,626
2	31-01-2023	28-02-2023	28	8.6	10.6 as on 15-01-2023	6,888
3	28-02-2023	28-03-2023	28	8.7	10.7 as on 15-02-2023	6,953
4	28-03-2023	28-04-2023	31	8.7	10.7 as on 15-03-2023	7,698
5	28-04-2023	28-05-2023	30	8.7	10.7 as on 15-04-2023	7,449

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6	28-05-2023	01-06-2023	4	8.7	10.7 as on 15-05-2023	993
					TOTAL DELAYED INTEREST as on 01/06/2023	5,18,475

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

28. **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/221221/0010508** is hereby allowed.

The respondents are directed to pay a sum of **Rs.5,18,475/- (Rupees Five Lakh Eighteen Thousand Four Hundred and Seventy Five only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 30/09/2022 till 01/06/2023.

The interest due from 02/06/2023 until handing over possession of the flat by the respondents will be calculated likewise and paid to the complainants.

The complainants are 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.

  
(Neelmani N Raju)  
Member, K-RERA

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2,18,932	TOTAL			
	DELATED			
	INTEREST			
	IN			
	OTHER			

*[Signature]*  
 (Name)  
 Member, R-RMA