

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 BEFORE THE AUTHORITY**

**Dated 5th September 2023**

**CMP/211122/0008615**

**Present**

**Hon'ble Chairman Shri. H.C. Kishore Chandra**

**Hon'ble Member Shri. G.R.Reddy**

**Complainant.....**

**Ujjal Roy**

793, 4th Floor, 16A Main Road,  
22nd Cross, HSR Sector 3,  
Bengaluru - 560102.

(By Shri. Abhishek Saha, Advocate)

**V/S**

**Respondent.....**

**FRONTIER SHELTERS PVT LTD**

NO 422 80 FEET ROAD,

6TH BLOCK KORAMANGALA.

Bengaluru-560095.

(By Shri. Girish Kumar, Advocate )

\* \* \* \* \*

1. This complaint is filed under section 31 of the RERA Act against the project "FRONTIER HEIGHTS" developed by "FRONTIER SHELTERS PVT LTD" of the respondent for the relief of interest on delay period or refund with interest.
2. This project has been registered under RERA vide registration No. PRM/KA/RERA/1251/446/PR/171214/001250.

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3. The said project is situated at S.NO.49 1 2, HARALUR VILLAGE VARTHUR HOBLI , Bengaluru East , Bengaluru Urban.

**Brief facts of the complaint are as under:-**

4. The complainant has entered into an agreement of sale and construction agreement on 21/05/2019 to purchase a flat bearing No.2091 on 9<sup>th</sup> floor in tower 2 in the project of respondent. The respondent was supposed to handover the possession of the said flat to the complainant before 31/03/2020. But, the respondent has failed to handover the possession of the said flat as agreed. Therefore, the respondent is liable to pay interest on delay period till 01/04/2020 till handover of possession. Hence, this complaint.

5. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through his counsel, but has not contested the matter by filing statement of objections, producing documents on his behalf etc.,

6. In support of their claim, the complainant has produced/uploaded copies of agreement for sale, email conversation, payment receipts.

7. This matter was heard on 18/04/2021, 30/05/2022, 01/08/2022 and 30/03/2023.

8. Heard arguments of both sides.

**9. On the above averments, the following points would arise for our consideration:-**

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

**10. Findings on the above points are as under:-**

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





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**REASONS**

**11. Findings on Point No.1:-** The complainant has approached this forum seeking for the relief of interest on delay period. The grounds urged are that the complainant has booked a flat bearing No.2091 in the project of the respondent by entering into an agreement of sale in May 2019. As per the said agreements the respondent was supposed to handover possession of the said flat to the complainant in March 2020. But till date he has not handed over the possession of the flat to the complainant.

12. In response to the notice, the respondent has appeared before the Authority through his counsel. But he has not contested the matter by filing statement of objections, producing documents, etc.

13. Looking to the averments of agreement, parties herein have entered into an agreement of sale in May 2019. The agreement of sale is a key instrument which binds the parties in a contractual relation so as to be properly enforced in accordance with law, it is quite necessary that it shall be free from any ambiguity and vagueness. As per the terms of agreement of sale, the respondent was supposed to handover the possession of said flat to the complainant in March 2020. But the respondent had not completed and handover the possession of the said flat to the complainant till date.

14. As per decision of Hon'ble Supreme Court in appeal No.6750-57/2021, M/S Newtech Promoters and vs The State of Uttar Pradesh it is held as under

*Para No.22. 'If we take a conjoint reading of subsections (1), (2) and (3) of Section 18 of the Act, the different contingencies spelt out therein, (A) the allottee can either seek refund of the amount by withdrawing from the project; (B) such refund could be made together with interest as may be prescribed; (C) in addition, can also claim compensation payable under Sections 18(2) and 18(3) of the Act; (D) the allottee has the liberty, if he does not intend to withdraw from the*

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*project, will be required to be paid interest by the promoter for every months' delay in handing over possession at such rates as may be prescribed'.*

The said principle is aptly applicable to the present case on hand.

15. As per sec.18 of RERA Act, the respondent is liable to pay interest for delay period. Since the claim of the complainant remained unchallenged, considering the cogent materials available of record, the delay in handing over possession being apparent, this Authority see no legal impediment in allowing the complaint as prayed. The complainant has paid Rs. 58,31,051/-(Fifty eight lakh thirty one thousand and fifty one only) to the respondent towards sale consideration.

16. In response to the notice the respondent has appeared before the Authority through his counsel. But, he has not contested the matter by participating in the proceedings, filing objections, producing documents on his behalf etc. Therefore, claim of the complainant remained undisputed and unchallenged. Hence, there is no reason to discard the claim of complainant. In the absence of any resistance by the respondent no option is left to this Authority except to accept the claim of complainant which is corroborated with the cogent evidence.

17. Therefore, it is incumbent upon the respondent to pay the interest on delay period to the complainant. The complainant has furnished memo of calculation as under.

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,831,051						
1	31-03-20	30-04-20	30	8.05	10.05 as on 10-03-2020	48,166
2	30-04-20	30-05-20	30	7.7	9.7 as on 10-04-2020	46,488
3	30-05-20	30-06-20	31	7.55	9.55 as on 10-05-	47,295

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					2020	
4	30-06-20	30-07-20	30	7.3	9.3 as on 10-06-2020	44,571
5	30-07-20	30-08-20	31	7.3	9.3 as on 10-07-2020	46,057
6	30-08-20	30-09-20	31	7.3	9.3 as on 10-08-2020	46,057
7	30-09-20	30-10-20	30	7.3	9.3 as on 10-09-2020	44,571
8	30-10-20	30-11-20	31	7.3	9.3 as on 10-10-2020	46,057
9	30-11-20	30-12-20	30	7.3	9.3 as on 10-11-2020	44,571
10	30-12-20	30-01-21	31	7.3	9.3 as on 10-12-2020	46,057
11	30-01-21	28-02-21	29	7.3	9.3 as on 10-01-2021	43,085
12	28-02-21	28-03-21	28	7.3	9.3 as on 10-02-2021	41,600
13	28-03-21	28-04-21	31	7.3	9.3 as on 10-03-2021	46,057
14	28-04-21	28-05-21	30	7.3	9.3 as on 10-04-2021	44,571
15	28-05-21	28-06-21	31	7.3	9.3 as on 15-05-2021	46,057
16	28-06-21	28-07-21	30	7.3	9.3 as on 15-06-2021	44,571
17	28-07-21	28-08-21	31	7.3	9.3 as on 15-07-2021	46,057
18	28-08-21	28-09-21	31	7.3	9.3 as on 15-08-2021	46,057
19	28-09-21	28-10-21	30	7.3	9.3 as on 15-09-2021	44,571
20	28-10-21	28-11-21	31	7.3	9.3 as on 15-10-2021	46,057
21	28-11-21	28-12-21	30	7.3	9.3 as on 15-11-2021	44,571
22	28-12-21	28-01-22	31	7.3	9.3 as on 15-12-2021	46,057
23	28-01-22	28-02-22	31	7.3	9.3 as on 15-01-2022	46,057
24	28-02-22	28-03-22	28	7.3	9.3 as on 15-02-2022	41,600
25	28-03-22	28-04-22	31	7.3	9.3 as on 15-03-2022	46,057

*(Handwritten signature)*

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26	28-04-22	28-05-22	30	7.4	9.4 as on 15-04-2022	45,050
27	28-05-22	28-06-22	31	7.5	9.5 as on 15-05-2022	47,047
28	28-06-22	28-07-22	30	7.7	9.7 as on 15-06-2022	46,488
29	28-07-22	28-08-22	31	7.8	9.8 as on 15-07-2022	48,533
30	28-08-22	28-09-22	31	8	10.0 as on 15-08-2022	49,523
31	28-09-22	28-10-22	30	8	10.0 as on 15-09-2022	47,926
32	28-10-22	28-11-22	31	8.25	10.25 as on 15-10-2022	50,762
33	28-11-22	28-12-22	30	8.35	10.35 as on 15-11-2022	49,603
34	28-12-22	28-01-23	31	8.6	10.6 as on 15-12-2022	52,495
35	28-01-23	28-02-23	31	8.6	10.6 as on 15-01-2023	52,495
36	28-02-23	28-03-23	28	8.7	10.7 as on 15-02-2023	47,862
37	28-03-23	28-04-23	31	8.7	10.7 as on 15-03-2023	52,990
38	28-04-23	18-05-23	20	8.7	10.7 as on 15-04-2023	34,187
					TOTAL DELAYED INTEREST as on 18/05/2023	1,757,876

18. In spite of providing sufficient opportunity, the respondent has not furnished memo of calculation on his behalf.

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

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19. **Our findings on point No.2:-** In view of the above discussion, the complaint deserves to be allowed. Hence, we 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/211122/0008615** is hereby allowed as under.

1. The Respondent is directed to pay the amount of Rs.17,57,876/- (Seventeen lakh Fifty seven thousand eight hundred and seventy six only) towards interest on delay period at the rate of SBI MCLR+2% from 01/04/2020 upto 18/05/2023 to the complainant within 60 days from the date of this order.
2. The interest on delay period due from 19/05/2023 till the date of handing over the possession of the flat will be calculated likewise and paid to the complainant.
3. The complainant is at liberty to initiate action in accordance with law, if the respondent fails to comply with this order.

No order as to costs.

  
(G.R.Reddy)  
Member  
K-RERA

  
(H.C. Kishore Chandra)  
Chairman  
K-RERA

