

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 05th September 2023

CMP/220207/0008979

Present

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

Hon'ble Member Shri. G.R.Reddy

Complainants.....

1. Shivangi Goyal

2. Manas Agarwal

#42,30th main road,

BTM 2nd stage,

Bengaluru - 560076.

(By Shri. K.C.Visweswaraiiah, 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.
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 complainants have entered into an agreement of sale in June 2020 to purchase a flat bearing No.2023 in the project of respondent. The respondent was supposed to handover the possession of the said flat to the complainant before 30/11/2020 as per agreement of sale. 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 from 01/12/2020 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 complainants have 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 complainants are entitled for the relief claimed?
2. What order?

10. Findings on the above points is 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 complainants have approached this forum seeking for the relief of interest on delay period. The grounds urged are that the complainants have booked an flat bearing No.2023 in the project of the respondent by entering into agreement of sale on June 2020. As per the said agreement the respondent was supposed to handover possession of the said flat to the complainants in November 2020. But till date he has not handed over the possession of the flat to the complainants.

12. Looking to the averments of agreement, parties herein have entered into an agreement of sale on June 2020. 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 complainants in November 2020. But the respondent had not completed and handover the possession of the said flat to the complainants till date.

13. 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 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'.

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

14. As per sec.18 of RERA Act, the respondent is liable to pay interest for delay period. Since the claim of the complainants 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 complainants have paid Rs. 54,74,015/- (Fifty four lakh seventy four thousand and fifteen only) to the respondent towards entire sale consideration.

15. 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 complainants remained undisputed and unchallenged. Hence, there is no reason to discard the claim of complainants. In the absence of any resistance by the respondent no option is left to this Authority except to accept the claim of complainants which is corroborated with the cogent evidence.

16. Therefore, it is incumbent upon the respondent to pay the interest on delay period to the complainants. The complainants have 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 5,474,015						
1	30-11-20	30-12-20	30	7.3	9.3 as on 10-11-2020	41,842
2	30-12-20	30-01-21	31	7.3	9.3 as on 10-12-2020	43,237
3	30-01-21	28-02-21	29	7.3	9.3 as on 10-01-2021	40,447
4	28-02-21	28-03-21	28	7.3	9.3 as on 10-02-2021	39,052

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5	28-03-21	28-04-21	31	7.3	9.3 as on 10-03-2021	43,237
6	28-04-21	28-05-21	30	7.3	9.3 as on 10-04-2021	41,842
7	28-05-21	28-06-21	31	7.3	9.3 as on 15-05-2021	43,237
8	28-06-21	28-07-21	30	7.3	9.3 as on 15-06-2021	41,842
9	28-07-21	28-08-21	31	7.3	9.3 as on 15-07-2021	43,237
10	28-08-21	28-09-21	31	7.3	9.3 as on 15-08-2021	43,237
11	28-09-21	28-10-21	30	7.3	9.3 as on 15-09-2021	41,842
12	28-10-21	28-11-21	31	7.3	9.3 as on 15-10-2021	43,237
13	28-11-21	28-12-21	30	7.3	9.3 as on 15-11-2021	41,842
14	28-12-21	28-01-22	31	7.3	9.3 as on 15-12-2021	43,237
15	28-01-22	28-02-22	31	7.3	9.3 as on 15-01-2022	43,237
16	28-02-22	28-03-22	28	7.3	9.3 as on 15-02-2022	39,052
17	28-03-22	28-04-22	31	7.3	9.3 as on 15-03-2022	43,237
18	28-04-22	28-05-22	30	7.4	9.4 as on 15-04-2022	42,292

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19	28-05-22	28-06-22	31	7.5	9.5 as on 15-05-2022	44,167
20	28-06-22	28-07-22	30	7.7	9.7 as on 15-06-2022	43,642
21	28-07-22	28-08-22	31	7.8	9.8 as on 15-07-2022	45,561
22	28-08-22	28-09-22	31	8	10.0 as on 15-08-2022	46,491
23	28-09-22	28-10-22	30	8	10.0 as on 15-09-2022	44,991
24	28-10-22	28-11-22	31	8.25	10.25 as on 15-10-2022	47,653
25	28-11-22	28-12-22	30	8.35	10.35 as on 15-11-2022	46,566
26	28-12-22	28-01-23	31	8.6	10.6 as on 15-12-2022	49,281
27	28-01-23	28-02-23	31	8.6	10.6 as on 15-01-2023	49,281
28	28-02-23	28-03-23	28	8.7	10.7 as on 15-02-2023	44,931
29	28-03-23	28-04-23	31	8.7	10.7 as on 15-03-2023	49,746
30	28-04-23	28-05-23	30	8.7	10.7 as on 15-04-2023	48,141
31	28-05-23	28-06-23	31	8.7	10.7 as on 15-05-2023	49,746

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					TOTAL DELAYED INTEREST as on 26/07/2023	1,369,383
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17. 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.

18. **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/220207/0008979** is hereby allowed as under.

1. The respondent is directed to pay the amount of Rs. 13,69,383/- (Thirteen lakh sixty nine thousand three hundred and eighty three only) towards interest on delay at the rate of SBI MCLR+2% from 30/11/2020 upto 26/07/2023 to the complainants within 60 days from the date of this order.
2. The interest on delay period due from 27/07/2023 till the date of handing over the





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possession of the flat will be calculated likewise and paid to the complainants.

3. The complainants are 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