

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5

DATE: 06-09-2023

PRESIDED BY HON'BLE MEMBER SHRI. G.R. REDDY

COMPLAINT NO.:CMP/210201/0007554

COMPLAINANTS.....

**1.SARVESH S
NO. 1016, 25th Main,
39th Cross, 4 T Block,
Jayanagar,
BANGALORE-560041.**

(In Person)

V/S

RESPONDENT.....

**M/S Vasathi Housing Ltd.,
Plot No. 41, H.No. 8-2-269/S/41, Sagar
Society Road, No.2, Banjara Hills,
BANGALORE-560034.**

(Exparte)

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "Vasathi Avante" developed by M/s Vasathi Housing Ltd., for the relief of interest on delay period in handing over the flat.
2. This project has been registered with RERA vide registration No.PRM/KA/RERA/1251/309/PR/171208/001088.
3. This project is situated at on 84/1, BBMP KHATA No.-37/1/84/1 Rachenahalli Village, K.R.Puram Hobli, Bengaluru East Taluk.

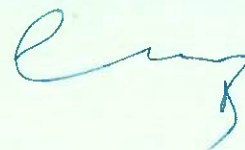
Brief facts of the complaint are as under:-

4. The complainant has booked a flat bearing No. C-1302 with a super build up area of 1063.2 sq.ft in the project "Vasathi Avante" developed

by "Vasathi Housing Ltd.,". Complainant has paid an amount of Rs.52,12,396/- (Rupees Fifty Two Lakhs Twelve Thousand Three Hundred and Ninety Six only) on various dates to the respondent. The complainants have entered into an agreements of sale and construction on 16-03-2017 for the total sale consideration of Rs.60,61,394/-(Rupees Sixty Lakhs Sixty One Thousand and Three Hundred and Ninety Four only). As per sale agreement the respondent was under obligation to handover possession before the end of June 2017 with a grace period of six months i.e. latest by the end of December 2017. Though more than five years have been lapsed, the respondent has failed to complete the project as agreed and to handover the possession of the flat to the complainants along with the occupancy certificate. The complainant has received an email from the respondent on 06-03-2020 for registration of the flat and a attachment of intimation letter due to changes in present tax system and total sale consideration of Rs. 61,63,225/-(Rupees Sixty One Lakhs Sixty Three Thousand and Two Hundred and Twenty Five) the complainants have already paid Rs.52,12,396/- (Rupees Fifty Two Lakhs Twelve Thousand and Three Hundred and Ninety Six only). The respondent had deducted Rs. 2,65,829/-(Rupees Two Lakhs Sixty Five Thousand Eight Hundred and Twenty Nine only) for delay charges, modification charges, TDS and corpus and maintenance. The complainants have transferred the balance amount through RTGS on 09-03-2020 and the sale deed was executed on 11-03-2020.

5. The respondent has promised in agreement of sale that the following amenities such as club house, swimming pool with kids pool, indoor badminton court, children play area, toddlers area, table tennis, snooker/billiards, gymnasium, steam and sauna, yoga room, liberty and common party hall and dining hall to be provided. The respondent has not completed even the basic aminities and safty requirement such as ;

- a. Sewage treatment plant.
 - b. The garden/landscaping area in the first floor and all over the property is unfinished leading to huge concrete tanks and pots, used for planting trees and plants in the area filled with stagnant rainwater leading to mosquito breeding and risk of spread of diseases.
 - c. CCTV and other smart security devices are not installed.
 - d. The organic waste convertor is lying un commissioned leading to improper disposal of wet waste.
 - e. There are many incomplete construction area with gaping holes and unsupported scaffolding structures, leaking roofs and walls, uncovered man holes, cable and plumbing ducts etc.,.
 - f. The closed car parking is incomplete with no markings and construction debris lying all over the basement area.
 - g. The bore wells providing water to the apartments, the only source of water are un-maintained, leaking pipes, burnt motor and blocked pipes leading to less or no water and regular purchase of water through tankers, at high cost and low hygiene.
 - h. Common area lighting and replacement of fused lights are not being done regularly leading to dark areas which is a safety and security hazard.
 - i. All the lifts are not yet commissioned and there is no proper maintenance of commissioned lifts. Hence, this complaint.
6. After registration of the complaint, this Authority had issued notice to both the parties to appear before this Authority. In pursuance of the notice, the complainant has appeared before the Authority and filed Memo of Calculation, Agreements of Sale and construction, payment receipts and copies of email conversation between both the parties etc. The respondent did not appear before this Authority and remained absent. Hence, the respondent was placed as ex-parte.
7. This matter is heard on 14-06-2023 and 27-06-2023.



8. **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?

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

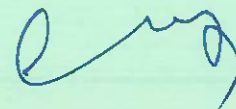
1. In the Affirmative.
2. As per final order for the following

REASONS

10. **My answer to point No.1:-** It is undisputed that the respondent has failed to handover possession of the apartment to the complainant herein within agreed time. As per the terms of agreement of sale between the parties, the possession of the apartment had to be handed over before the end of December 2015. When the respondent has failed to handover possession as agreed by them, the complainants have approached this forum for direction to the respondent to pay interest on delay period and compensation.

11. From the averments of the complaint and the copies of agreements between the parties, it is obvious that complainants have already paid substantial sale consideration amount to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of the flat even after eight years, certainly entitles the complainants herein for delay period interest. The complainants have claimed Rs.12,00,710/- (Rupees Twelve Lakhs Seven Hundred and ten only) as delay period interest vide their memo of calculation as on 16/06/2023 calculated from 31/12/2017 to 09/03/2023.

12. In response to the notice, the respondent has not appeared before this Authority to participate in the proceedings. He has not resisted the claim of complaints in any manner such as by filing objections, producing documents etc.,. Hence, the claim of complaints



remind un challenged and same is corroborated with the cogent evidence. There is no reason to discard the claim of complainant and no option left to this Authority except to accept the claim of complainant.

13. Despite opportunities were given, the respondent did not file its memo of calculation. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/12/2017 to 09/03/2023.

14. Therefore, it is incumbent upon the respondent to pay interest for the principle amount for the delay period which is determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	52,12,396	31-12-2017
2	Subsequent Payment	6,85,000	09-03-2020
3	Total Principle Amount	58,97,396	
4	Total Delayed Interest		12,00,710

Interest Calculation						
S.N O	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,267,267						
1	31-12-2017	31-01-2018	31	8.1	10.1 as on 01-12-2017	44,712
2	31-01-2018	28-02-2018	28	8.1	10.1 as on 01-01-2018	40,385
3	28-02-2018	28-03-2018	28	8.1	10.1 as on 01-02-2018	40,385
4	28-03-2018	28-04-2018	31	8.35	10.35 as on 01-03-2018	45,819
5	28-04-2018	28-05-2018	30	8.35	10.35 as on 01-04-2018	44,341
6	28-05-2018	28-06-2018	31	8.35	10.35 as on 01-05-2018	45,819
7	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018	44,769
8	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018	46,261
9	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018	46,261
10	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018	45,626

11	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018	47,368
12	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018	45,840
13	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018	47,589
14	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019	47,589
15	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	42,984
16	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	47,589
17	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	45,840
18	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	47,147
19	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	45,626
20	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	46,925
21	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	46,261
22	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	44,341
23	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	45,376
24	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	43,698
25	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	45,155
26	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	45,155
27	28-02-2020	10-03-2020	11	8.15	10.15 as on 10-02-2020	15,944
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 685,000						
1	09-03-2020	09-04-2020	31	8.15	10.15 as on 10-02-2020	5,905
					TOTAL DELAYED INTEREST as on 10/03/2020	12,00,710

1. Accordingly point raised above is answered in the Affirmative.
2. **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/210201/ 0007554** is hereby allowed. Respondent is directed to pay the amount of **Rs.12,00,710/- (Rupees Twelve Lakhs Seven Hundred and Ten only) towards delay period interest** calculated at MCLR + 2% from 31/12/2017 till 09/03/2020 to the complainants within 60 days from the date of this order.

The complainant is 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.

No order as to the costs.

(G R Reddy)
Member, KRERA

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With the complaint being NO. 10001/0001/0001504
in para. 10, respondent is directed to pay the
amount of Rs. 12,00,000/- (Rupees Twelve Lakhs Seven
Hundred and Ten only) towards delay period interest
calculated at 20% p.a. from 31/12/2017 till
09/03/2020 to be computed within 90 days from the
date of this order.

The complainant is at liberty to initiate action in
the court of law with law if the respondent fails to
pay the amount as per the order of this Authority.

No order as to the costs.

(G R Raddy)
Member, KREBA

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