

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 14th September 2023

CMP/220325/0009255

Present

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

Hon'ble Member Shri. G.R.Reddy

Complainant.....

VIVEK TRIPATHI

202, Arjun grand apartment,
1st cross, old mangamanapalya road,
Munneshwara nagar,
Bengaluru - 560068.
(In person)

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 possession and 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 complainant has entered into an agreement of sale on 02/11/2020 to purchase a flat bearing No.3051 in the project of respondent. The respondent was supposed to handover the possession of the said flat to the complainant in March 2021. 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 01/04/2021 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, payment receipts and email conversation.

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 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 complainant has approached this forum seeking for the relief of interest on delay period and possession. The grounds urged are that the complainant has booked a flat bearing No.3051 in the project of the respondent by entering into an agreement of sale on 02/11/2020. As per the said agreement the respondent was supposed to handover possession of the said flat to the complainant before 31/03/2021. But till date he has not handed over the possession of the said flat to the complainant.

12. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 02/11/2020. 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 complainant in March 2021. 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 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'.

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

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15. As per sec.18 of RERA Act, the respondent is liable to pay interest for delay period. Considering the entire materials available on 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. 53,91,651/-(Fifty three lakh ninety one thousand six hundred fifty one only) to the respondent towards sale consideration.

16. Further, the complainant has sought for the relief of possession of their flat. Having accepted substantial sale consideration and failure on the part of the respondent to complete the project and to handover the said flat certainly entitles the complainant for possession.

17. Having regard to all these aspects, this Authority is of the opinion that the complainant is entitles for interest on delay period as well as possession of their flat.

18. Therefore, it is incumbent upon the respondent to pay the interest on delay period to the complainant. The complainant has furnished memo of calculation from 01/03/2021. But as per agreement of sale complainant are entitled for interest on delay period from April 2021.

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,391,651						
2	01-04-21	01-05-21	30	7.3	9.3 as on 10-03-2021	41,212
3	01-05-21	01-06-21	31	7.3	9.3 as on 10-04-2021	42,586
4	01-06-21	01-07-21	30	7.3	9.3 as on 15-05-2021	41,212
5	01-07-21	01-08-21	31	7.3	9.3 as on 15-06-2021	42,586
6	01-08-21	01-09-21	31	7.3	9.3 as on 15-07-2021	42,586

168

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
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7	01-09-21	01-10-21	30	7.3	9.3 as on 15-08-2021	41,212
8	01-10-21	01-11-21	31	7.3	9.3 as on 15-09-2021	42,586
9	01-11-21	01-12-21	30	7.3	9.3 as on 15-10-2021	41,212
10	01-12-21	01-01-22	31	7.3	9.3 as on 15-11-2021	42,586
11	01-01-22	01-02-22	31	7.3	9.3 as on 15-12-2021	42,586
12	01-02-22	01-03-22	28	7.3	9.3 as on 15-01-2022	38,465
13	01-03-22	01-04-22	31	7.3	9.3 as on 15-02-2022	42,586
14	01-04-22	01-05-22	30	7.3	9.3 as on 15-03-2022	41,212
15	01-05-22	01-06-22	31	7.4	9.4 as on 15-04-2022	43,044
16	01-06-22	01-07-22	30	7.5	9.5 as on 15-05-2022	42,099
17	01-07-22	01-08-22	31	7.7	9.7 as on 15-06-2022	44,418
18	01-08-22	01-09-22	31	7.8	9.8 as on 15-07-2022	44,876
19	01-09-22	01-10-22	30	8	10.0 as on 15-08-2022	44,314
20	01-10-22	01-11-22	31	8	10.0 as on 15-09-2022	45,792
21	01-11-22	01-12-22	30	8.25	10.25 as on 15-10-2022	45,422

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22	01-12-22	01-01-23	31	8.35	10.35 as on 15-11-2022	47,394
23	01-01-23	01-02-23	31	8.6	10.6 as on 15-12-2022	48,539
24	01-02-23	01-03-23	28	8.6	10.6 as on 15-01-2023	43,842
25	01-03-23	01-04-23	31	8.7	10.7 as on 15-02-2023	48,997
26	01-04-23	01-05-23	30	8.7	10.7 as on 15-03-2023	47,416
27	01-05-23	18-05-23	17	8.7	10.7 as on 15-04-2023	26,869
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 424,000						
1	25-06-21	25-07-21	30	7.3	9.3 as on 15-06-2021	3,240
2	25-07-21	25-08-21	31	7.3	9.3 as on 15-07-2021	3,349
3	25-08-21	25-09-21	31	7.3	9.3 as on 15-08-2021	3,349
4	25-09-21	25-10-21	30	7.3	9.3 as on 15-09-2021	3,240
5	25-10-21	25-11-21	31	7.3	9.3 as on 15-10-2021	3,349
6	25-11-21	25-12-21	30	7.3	9.3 as on 15-11-2021	3,240
7	25-12-21	25-01-22	31	7.3	9.3 as on 15-12-2021	3,349
8	25-01-22	25-02-22	31	7.3	9.3 as on 15-01-2022	3,349

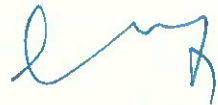
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9	25-02-22	25-03-22	28	7.3	9.3 as on 15-02-2022	3,024
10	25-03-22	25-04-22	31	7.3	9.3 as on 15-03-2022	3,349
11	25-04-22	25-05-22	30	7.4	9.4 as on 15-04-2022	3,275
12	25-05-22	25-06-22	31	7.5	9.5 as on 15-05-2022	3,421
13	25-06-22	25-07-22	30	7.7	9.7 as on 15-06-2022	3,380
14	25-07-22	25-08-22	31	7.8	9.8 as on 15-07-2022	3,529
15	25-08-22	25-09-22	31	8	10.0 as on 15-08-2022	3,601
16	25-09-22	25-10-22	30	8	10.0 as on 15-09-2022	3,484
17	25-10-22	25-11-22	31	8.25	10.25 as on 15-10-2022	3,691
18	25-11-22	25-12-22	30	8.35	10.35 as on 15-11-2022	3,606
19	25-12-22	25-01-23	31	8.6	10.6 as on 15-12-2022	3,817
20	25-01-23	25-02-23	31	8.6	10.6 as on 15-01-2023	3,817
21	25-02-23	25-03-23	28	8.7	10.7 as on 15-02-2023	3,480
22	25-03-23	25-04-23	31	8.7	10.7 as on 15-03-2023	3,853

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23	25-04-23	18-05-23	23	8.7	10.7 as on 15-04-2023	2,858
					TOTAL DELAYED INTEREST as on 18/05/2023	1,194,299

Sum and substance of the case is as under.

Date of agreement of sale	02/11/2020
Date of construction agreement	Not available
Sale consideration	Rs. 62,65,209/- (Sixty two lakhs sixty five thousand two hundred nine only).
Amount paid	Rs. 53,91,651/- (Fifty three lakhs ninety one thousand six hundred fifty one only)
Promised date of possession as per AOS	31-03-2021
Date of sale deed	Not yet executed
Date of occupancy certificate	Not obtained
Whether the possession has been handed over	No
Prayer	Possession and Interest on delay period

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

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/220325/0009255** is hereby allowed as under.

168

168

ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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1. The respondent is directed to pay the amount of Rs. 11,94,299/- (Eleven lakh ninety four thousand and two hundred ninety nine only) towards interest on delay period at the rate of SBI MCLR+2% from 01/04/2021 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. Further, the respondent is directed to complete the project and to handover the flat No.3051 in the project FRONTIER HEIGHTS to the complainant within 60 days from the date of order.
4. 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

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