

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/220510/0009444

Present

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

Hon'ble Member Shri. G.R.Reddy

Complainants.....

1. Payal Bhargava

2. Arpit Bhargava

117 Parthu Pride,

New Temple Road, Nallurhalli,

Near Brigade IRV, Whitefield,

Bengaluru - 560066.

(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 interest on delay period.





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2. This project has been registered under RERA vide registration No. PRM/KA/RERA/1251/446/PR/171214/001250.
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 on 12/02/2021 to purchase a flat bearing No.3032 in the project of respondent. The respondent was supposed to handover the possession of the said flat to the complainants in June 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 from 01/07/2021 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 complainants have produced/uploaded copies of agreement for sale, payment receipts and allotment letter.

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.3032 in the project of the respondent by entering into agreement of sale on 12/02/2021. As per the said agreements the respondent was supposed to handover possession of the said flat to the complainants before June 2021. 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 12/02/2021. 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 June 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 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 complainants have paid Rs. 56,12,000/- (Fifty six lakhs twelve thousand 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 5,612,000						
1	30-06-21	30-07-21	30	7.3	9.3 as on 15-06-2021	42,897
2	30-07-21	30-08-21	31	7.3	9.3 as on 15-07-2021	44,327
3	30-08-21	30-09-21	31	7.3	9.3 as on 15-08-2021	44,327
4	30-09-21	30-10-21	30	7.3	9.3 as on 15-09-2021	42,897

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5	30-10-21	30-11-21	31	7.3	9.3 as on 15-10-2021	44,327
6	30-11-21	30-12-21	30	7.3	9.3 as on 15-11-2021	42,897
7	30-12-21	30-01-22	31	7.3	9.3 as on 15-12-2021	44,327
8	30-01-22	28-02-22	29	7.3	9.3 as on 15-01-2022	41,467
9	28-02-22	28-03-22	28	7.3	9.3 as on 15-02-2022	40,037
10	28-03-22	28-04-22	31	7.3	9.3 as on 15-03-2022	44,327
11	28-04-22	28-05-22	30	7.4	9.4 as on 15-04-2022	43,358
12	28-05-22	28-06-22	31	7.5	9.5 as on 15-05-2022	45,280
13	28-06-22	28-07-22	30	7.7	9.7 as on 15-06-2022	44,742
14	28-07-22	28-08-22	31	7.8	9.8 as on 15-07-2022	46,710
15	28-08-22	28-09-22	31	8	10.0 as on 15-08-2022	47,663
16	28-09-22	28-10-22	30	8	10.0 as on 15-09-2022	46,126
17	28-10-22	28-11-22	31	8.25	10.25 as on 15-10-2022	48,855
18	28-11-22	28-12-22	30	8.35	10.35 as on 15-11-2022	47,740

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19	28-12-22	28-01-23	31	8.6	10.6 as on 15-12-2022	50,523
20	28-01-23	28-02-23	31	8.6	10.6 as on 15-01-2023	50,523
21	28-02-23	28-03-23	28	8.7	10.7 as on 15-02-2023	46,064
22	28-03-23	28-04-23	31	8.7	10.7 as on 15-03-2023	51,000
23	28-04-23	28-05-23	30	8.7	10.7 as on 15-04-2023	49,354
24	28-05-23	31-05-23	3	8.7	10.7 as on 15-05-2023	4,935
					TOTAL DELAYED INTEREST as on 31/05/2023	1,054,703

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

Sum and substance of the case is as under.

Date of agreement of sale	12-02-2021
Date of construction agreement	Not available
Sale consideration	Rs. 61,87,723/- (Sixty one lakhs eighty seven thousand seven hundred twenty three only).
Amount paid	Rs. 56,12,000/- (Fifty two lakhs twelve thousand only)
Promised date of possession as per AOS	30-06-2021
Date of sale deed	Not yet executed
Date of occupancy certificate	Not obtained
Whether the possession has been handed over	No
Prayer	Interest on delay period

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

18. **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/220510/0009444** is hereby allowed as under.

1. The respondent is directed to pay the amount of Rs. 10,54,703/- (Ten lakh fifty four thousand and seven hundred three only) towards interest on delay period at the rate of SBI MCLR+2% from 01/07/2021 upto 31/05/2023 to the complainants within 60 days from the date of this order.
2. The interest on delay period due from 01/06/2023 till the date of handing over the 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

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