

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 15th September 2023**

**CMP/211123/0008620**

**Present**

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

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

**Complainant.....**

**Rakesh Kumar Padhiary**

FLAT NO-105, B BLOCK,  
SUVASTU SERENE APARTMENT,  
ERAPPA REDDY LAYOUT,  
PARAPANNA AGRAHARA,  
Bengaluru - 560100.

(By Shri. Abheek Saha, Advocate)

**V/S**

**Respondent.....**

**FRONTIER SHELTERS PVT LTD**

NO 422 80 FEET ROAD,  
6TH BLOCK KORAMANGALA,  
Bengaluru-560095.

(By Shri. Girish Kumar, Advocate )

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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 14/07/2020 to purchase a flat bearing No.2033 in the project of respondent. The respondent was supposed to handover the possession of the said flat to the complainant in November 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 December 2020 till handover of possession. There is hardly any progress now and the construction work is almost stopped. The builder is not even replying to mails and calls on the project status update. 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 dated 14/07/2020, construction agreement, 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:-**

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

**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.2033 in the project of the respondent by entering into an agreement of sale on 14/07/2020. As per the said agreement the respondent was supposed to handover possession of the said flat to the complainants before 30/11/2020. 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 14/07/2020. 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 November 2020. But the respondent had not completed and handover the possession of the said flat to the complainants 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*



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*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. 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. 53,05,686/- (Fifty three lakh five thousand and six hundred eighty six 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.

Sum and substance of the case is as under.

Date of agreement of sale	14/07/2020
Date of construction agreement	14/07/2020
Sale consideration	Rs. 59,82,862/- (Fifty nine lakhs eighty two thousand eight hundred sixty two only).
Amount paid	Rs. 53,05,686/- (Fifty three lakh five thousand and six hundred eighty six only)
Promised date of possession as per AOS	30-11-2020
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

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

28. **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/211123/0008620** is hereby allowed as under.

1. The respondent is directed to pay the interest on delay period on amount of Rs. 53,05,686/- (Fifty three lakh five thousand and six hundred eighty six only) at the rate of SBI MCLR+2% from 01/12/2020 till handover of the possession of flat bearing No.2033 in the project FRONTIER HEIGHTS to the complainant within 60 days from the date of this order.
2. Further, the respondent is directed to complete the project and to handover the flat No.2033 in the project FRONTIER HEIGHTS to the complainant within 60 days from the date of order.
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

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*Calvin Lee*