

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 OF THE AUTHORITY BEFORE BENCH 6**

**Dated 11<sup>TH</sup> OCTOBER 2023**

**PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU**

**COMPLAINT NO.: CMP/00108/2023**

**COMPLAINANT.....**

**BIJJAM VENKATESWARA REDDY  
NO.21, OMKARA  
1<sup>ST</sup> MAIN, 4<sup>TH</sup> CROSS  
K R PURAM NEW EXTENSION  
K R PURAM  
BENGALURU-560036.**

**(IN PERSON)**

**Vs**

**RESPONDENT.....**

**1.M/S SHRIVISION TOWERS PVT LTD  
40/43, 8<sup>TH</sup> MAIN, 4<sup>TH</sup> CROSS  
SADASHIVA NAGAR  
BANGALORE-560080.**

**2.M/S SHRIPROP HOMES PVT LTD  
NO.31, 2<sup>ND</sup> MAIN ROAD  
T. CHOWDAIAH ROAD  
SADASHIVA NAGAR  
BANGALORE-560080.**

**3.M/S GARDENCITY REALTY PRIVATE LTD  
NO.845, 5<sup>TH</sup> CROSS ROAD  
10<sup>TH</sup> MAIN ROAD, INDIRANAGAR  
BANGALORE-560038.**

**4.M/S GARDEN CITY HOMES  
NO.845, 5<sup>TH</sup> CROSS ROAD  
10<sup>TH</sup> MAIN ROAD, INDIRANAGAR  
BANGALORE-560038.**

**(By Mr. Joseph Anthony, Advocate  
& others, JSM Law Partners)**

**\* \* \* \* \***

*M. S. S.*

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

**J U D G E M E N T**

1. This complaint is filed under section 31 of the RERA Act against the project "**SHRIRAM GREENFIELD PHASE 2**" developed by **SHRIVISION TOWERS PRIVATE LIMITED** situated at Sy.No.73/1, 73/2A, 74(P) & 81, Bammenahalli Village, Bidarahalli Hobli, Bangalore East Taluk, Hoskote, Bengaluru Rural for the relief of interest on delay period.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1250/304/PR/171014/001220 valid till 31/03/2021. The project was extended due to Covid-19 pandemic for a period of 9 months till 31/12/2021. The Authority has further extended its registration for a period of 12 months i.e. till 30/12/2022.

**Brief facts of the complaint are as under:-**

3. The complainant has purchased a flat bearing No.J-1609, Tower-J, 16<sup>th</sup> Floor in the project of the respondent and entered into an agreement of sale on 29/6/2021 and has paid an amount of Rs.52,53,310/- (Rupees Fifty Two Lakh Fifty Three Thousand Three Hundred and Ten only) to the respondent on various dates. The respondent was supposed to hand over the possession of the flat to the complainant by 31/12/2021 with a grace period of six months i.e. latest by 30/6/2022. The complainant has submitted that the respondent vide an email has offered Rs.75,000/- as delay compensation which is not acceptable. The complainant submits that the respondent has failed to deliver the flat as agreed. The complainant submits that he has paid all demand notes on time and is paying EMIs regularly against home loan to the Bank. The complainant submits that he is finding it difficult to manage additional rent and EMI payments. Thus, the complainant has approached this Hon'ble Authority and prays for directions to the respondent to pay interest for the delay

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

period and handover possession of the flat in a livable condition. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel/representative and has filed statement of objections as under:
5. The respondent denies the allegations made against them in the complaint and contends that the complainant is not entitled for seeking such relief of compensation for the delay. The respondent submits that they entered into a JDA to develop and construct residential flats. The respondent admits that they had agreed to deliver the flat to the complainant by 31/12/2021 with a grace period of six months i.e. latest by 30/6/2022. The respondent submits that the delay in completion of the project was attributed to the pending litigations against the respondent before the Hon'ble National Green Tribunal in O.A.No.222/2014 as well as before the Hon'ble Supreme Court in Civil Appeal No.5016/2016 benches regarding discrepancies in the maintenance of buffer zones and in view of the orders passed by the Hon'ble NGT, the respondent was constrained to halt construction work in the project where the flat allotted to the complainant was situated. The respondent submits that a lake was situated at a distance of 34 meters from the project, and the distance was sufficiently greater than 30 meters stipulated by the BBMP revised master plan. However, due to the general directions in the order of Hon'ble NGT this buffer zone was increased to 75 meters. The respondent further submits that on conclusion of the cases in Hon'ble NGT and Hon'ble Supreme Court, the construction proceeded.

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

6. The respondent further submits that in addition COVID-19 pandemic and the lockdowns imposed by the State Government to curb the disease from spreading have also contributed significantly to the obstacles faced by the respondent.
7. The respondent submits that the project has not been completed within stipulated time and was unable to deliver the flat as promised in the agreement for sale due to force majeure events such as, scarcity of raw materials, non-availability of skilled labours, transport disruption or such reasons beyond the control of the respondent, and the respondent cannot be held liable to compensate the complainant under section 18(1) of RERA Act.
8. The respondent submits that the project is still in the completion stage and under construction and that the complainant has approached this Hon'ble Authority seeking relief of delay period interest with an intention to reap profits in the instant complaint.
9. The respondent contends that there is no willful delay or default by the respondent in handing over the possession of the apartment to the complainant and continues to remain committed to delivering the possession to its customers. The respondent denies the allegations of the complainant and submits that the delay has been caused as a result of factors beyond the control of the respondent such as the ruling of the NGT and force majeure of the pandemic. The respondent prays this Hon'ble Authority not to grant the relief sought by the complainant and to dismiss the complaint.

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

10. In support of their defence, the respondent has submitted copies of Agreement for Sale, Order dated 4/5/2016 passed by the Hon'ble National Green Tribunal in O.A.No.222/2014, Order dated 5/3/2019 passed by the Hon'ble Supreme Court in Civil Appeal No.5016/2016, maps of Bommenahalli village and Bendiganahalli village depicting the lake, screenshot from Google maps depicting the location of the project and the lake, RERA registration, extension and covid extension certificates and memo of calculation as on 30/8/2023.
11. In support of his claim, the complainant has produced documents such as copies of agreement for sale, customer statement of account issued by the respondent, payment receipts and memo of calculation as on 16/6/2023.
12. This case was heard on 11/7/2023 and 4/10/2023. Heard arguments of both sides.
13. **On the above averments, the following points would arise for my consideration:-**
1. Whether the complainant is entitled for the relief claimed?
  2. What order?
14. **My answer to the above points are as under:-**
1. In the Affirmative.
  2. As per final order for the following:-

**REASONS**

15. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement for sale to handover the possession of the flat within 31/12/2021 with a grace period of six months i.e. latest by 30/6/2022, the respondent has failed

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

to abide by the terms of the agreement and has not handed over the possession of the flat to the complainant till date.

16. The Hon'ble Authority has perused the statement of objections submitted by the respondent and written submission submitted by the complainant. 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, and hence it is necessary that it shall be free from any ambiguity and vagueness. Here in this case, the respondent has not given possession of the said flat to the complainant as agreed and have not complied with the terms of the said agreement of sale. Therefore, the Authority has not accepted the contentions of the respondent made in their statement of objections.

17. During the process of the hearing the Authority in similar cases had directed the respondent to furnish information regarding the date of start of NGT litigation, date of order of Hon'ble NGT/Hon'ble Supreme Court, when the appeal was filed before the Hon'ble Supreme Court, date of sale of apartment to the complainants, whether the complainants/customers were kept informed about the litigation existing at the time of sale of agreement, whether they had kept the RERA Authority informed about this litigation at the time of registration, date of application for RERA registration.

18. The respondent have not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainant/customers about the ongoing dispute despite knowing the fact that the Hon'ble NGT order could delay their project. At the time of registration in RERA, the respondent could have taken longer time for

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

completion or changed their building plan. The respondent's contention that the ruling of the NGT, New Delhi had been extensively published in the media and newspapers and that the buyer ought to have been aware about the ruling of the NGT, New Delhi is not acceptable. The onus is on the promoter to open all their cards at the time of sales and not to keep the customers in dark.

19. At this juncture, my attention is drawn towards the decision of Hon'ble Supreme Court in Appeal No.6750-57/2021, M/s Newtech Promoters v/s 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; © 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 month's delay in handing over possession at such rates as may be prescribed."*

20. The complainant vide his memo of calculation as on 16/06/2023 has claimed an amount of Rs.7,66,982/- as delay period interest calculated from 30/12/2021 to 16/06/2023.

21. The respondent has submitted that the complainant is to be paid an amount of Rs.7,16,023/- as delay period interest calculated from



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

31/12/2021 to 30/8/2023. There is difference in the principle amount between the two parties. The complainant has submitted e-payment receipts as proof to substantiate his claim.

22. The Hon'ble Authority perused the memo of calculation submitted by both the parties and did not accept them, as the calculation for the delay period interest should have been made from 30/6/2022.

23. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest from 30/6/2022 till the date of handing over possession of the flat by the respondent.

24. Therefore, it is incumbent upon the respondent to pay interest on delay determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	52,53,310	30-06-2022
3	TOTAL DELAYED INTEREST as on 30/09/2023	6,86,046	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,253,310						
1	30-06-2022	30-07-2022	30	7.7	9.7 as on 15-06-2022	41,882
2	30-07-2022	30-08-2022	31	7.8	9.8 as on 15-07-2022	43,724
3	30-08-2022	30-09-2022	31	8	10.0 as on 15-08-2022	44,617
4	30-09-2022	30-10-2022	30	8	10.0 as on 15-09-2022	43,177
5	30-10-2022	30-11-2022	31	8.25	10.25 as on 15-10-2022	45,732



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

6	30-11-2022	30-12-2022	30	8.35	10.35 as on 15-11-2022	44,689
7	30-12-2022	30-01-2023	31	8.75	10.75 as on 15-08-2023	47,963
8	30-01-2023	28-02-2023	29	8.6	10.6 as on 15-01-2023	44,242
9	28-02-2023	28-03-2023	28	8.7	10.7 as on 15-02-2023	43,120
10	28-03-2023	28-04-2023	31	8.7	10.7 as on 15-03-2023	47,740
11	28-04-2023	28-05-2023	30	8.7	10.7 as on 15-04-2023	46,200
12	28-05-2023	28-06-2023	31	8.7	10.7 as on 15-05-2023	47,740
13	28-06-2023	28-07-2023	30	8.7	10.7 as on 15-06-2023	46,200
14	28-07-2023	28-08-2023	31	8.75	10.75 as on 15-07-2023	47,963
15	28-08-2023	28-09-2023	31	8.75	10.75 as on 15-08-2023	47,963
16	28-09-2023	30-09-2023	2	8.75	10.75 as on 15-08-2023	3,094
					TOTAL DELAYED INTEREST as on 30/09/2023	6,86,046

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

26. **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/00108/2023** is hereby allowed.



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

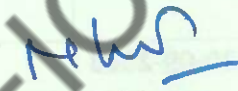
# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

The respondent is directed to pay a sum of **Rs.6,86,046/-**  
**(Rupees Six Lakh Eighty Six Thousand and Forty Six only)**  
towards delay period interest to the complainants within 60  
days from the date of this order, calculated at MCLR + 2% from  
30/06/2022 to 30/09/2023.

The interest on delay period due from 01/10/2023 till the date  
of handing over possession of the flat will be calculated likewise  
and paid to the complainant.

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.

  
(Neelmani N Raju)  
Member, K-RERA