

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 9<sup>th</sup> October 2023**

**CMP/220222/0009042**

**Present**

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

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

**Complainant.....**

**Jivesh Ranjan sarkar**

#779, Prabhat view Kindergarten,  
Alinagar, Nalanda  
Bihar – 803101.

And

#62, 1sr cross, 1<sup>st</sup> main,  
Mew Byappanahalli  
Bengaluru-560038.

(In person)

**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.





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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 complainant has entered into an agreement of sale on 20/06/2020 to purchase a flat bearing No.3021 in the project of respondent. The respondent was supposed to handover the possession of the said flat to the complainant in November 2020. 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 01/12/2020 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, construction agreement, payment receipts, booking form 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.

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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.3021 in the project of the respondent by entering into an agreement of sale on 20/06/2020. As per the said agreement the respondent was supposed to handover possession of the said flat to the complainant 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 20/06/2020. 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 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'.*



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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. 48,92,195/- (Forty eight lakh ninety two thousand one hundred ninety five 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 as under

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 4,892,195						
1	30-11-20	30-12-20	30	7.3	9.3 as on 10-11-2020	37,395
2	30-12-20	30-01-21	31	7.3	9.3 as on 10-12-2020	38,641
3	30-01-21	28-02-21	29	7.3	9.3 as on 10-01-2021	36,148
4	28-02-21	28-03-21	28	7.3	9.3 as on 10-02-2021	34,902
5	28-03-21	28-04-21	31	7.3	9.3 as on 10-03-2021	38,641

*ASB*

*[Handwritten Signature]*

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6	28-04-21	28-05-21	30	7.3	9.3 as on 10-04-2021	37,395
7	28-05-21	28-06-21	31	7.3	9.3 as on 15-05-2021	38,641
8	28-06-21	28-07-21	30	7.3	9.3 as on 15-06-2021	37,395
9	28-07-21	28-08-21	31	7.3	9.3 as on 15-07-2021	38,641
10	28-08-21	28-09-21	31	7.3	9.3 as on 15-08-2021	38,641
11	28-09-21	28-10-21	30	7.3	9.3 as on 15-09-2021	37,395
12	28-10-21	28-11-21	31	7.3	9.3 as on 15-10-2021	38,641
13	28-11-21	28-12-21	30	7.3	9.3 as on 15-11-2021	37,395
14	28-12-21	28-01-22	31	7.3	9.3 as on 15-12-2021	38,641
15	28-01-22	28-02-22	31	7.3	9.3 as on 15-01-2022	38,641
16	28-02-22	28-03-22	28	7.3	9.3 as on 15-02-2022	34,902
17	28-03-22	28-04-22	31	7.3	9.3 as on 15-03-2022	38,641
18	28-04-22	28-05-22	30	7.4	9.4 as on 15-04-2022	37,797
19	28-05-22	28-06-22	31	7.5	9.5 as on 15-05-2022	39,472
20	28-06-22	28-07-22	30	7.7	9.7 as on 15-06-2022	39,003

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21	28-07-22	28-08-22	31	7.8	9.8 as on 15-07-2022	40,719
22	28-08-22	28-09-22	31	8	10.0 as on 15-08-2022	41,550
23	28-09-22	28-10-22	30	8	10.0 as on 15-09-2022	40,209
24	28-10-22	28-11-22	31	8.25	10.25 as on 15-10-2022	42,588
25	28-11-22	28-12-22	30	8.35	10.35 as on 15-11-2022	41,617
26	28-12-22	28-01-23	31	8.6	10.6 as on 15-12-2022	44,043
27	28-01-23	28-02-23	31	8.6	10.6 as on 15-01-2023	44,043
28	28-02-23	28-03-23	28	8.7	10.7 as on 15-02-2023	40,156
29	28-03-23	28-04-23	31	8.7	10.7 as on 15-03-2023	44,458
30	28-04-23	28-05-23	30	8.7	10.7 as on 15-04-2023	43,024
31	28-05-23	28-06-23	31	8.7	10.7 as on 15-05-2023	44,458
32	28-06-23	28-07-23	30	8.7	10.7 as on 15-06-2023	43,024
33	28-07-23	28-08-23	31	8.75	10.75 as on 15-07-2023	44,666
34	28-08-23	19-09-23	22	8.75	10.75 as on 15-07-2023	31,698

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					TOTAL DELAYED INTEREST as on 19/09/20 23	1,343,221
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Sum and substance of the case is as under.

Date of agreement of sale	20/06/2020
Date of construction agreement	20/06/2020
Sale consideration	Rs. 58,81,370/- (Fifty eight lakh eighty one thousand three hundred seventy only).
Amount paid	Rs. 48,92,195/- (Forty eight lakh ninety two thousand one hundred ninety five 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

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/220222/0009042** is hereby allowed as under.

1. The respondent is directed to pay the amount of Rs. 13,43,221/- (Thirteen lakh forty three

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thousand and two hundred twenty one only) towards interest on delay period at the rate of SBI MCLR+2% from 30/11/2020 upto 19/09/2023 to the complainant within 60 days from the date of this order.

2. The interest on delay period due from 20/09/2023 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