

**PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5**

**PRESIDED BY SHRI G.R. REDDY, HON'BLE MEMBER**

**Dated 22<sup>nd</sup> September, 2023**

**COMPLAINT NO: CMP/UR/211126/0008642**

**COMPLAINANT...**

**Anitha Suresh  
No. 56, Pratiksha Nakshatra Layout,  
Hennur Road,  
Kothanur,  
Bengaluru-560077.  
DISTRICT: BENGALURU  
STATE: KARNATAKA**

**(In Person)**

**Vs**

**RESPONDENT.....**

**Elegant Properties,  
No.1, Coles Road,  
Frazer Town,  
BANGALORE-560005.  
(Exparte)**

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

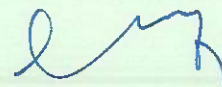
**J U D G E M E N T**

- 1.This complaint is filed by the complainant under section 31 of the RERA Act against the project "**Elegant Bristol**" developed by M/s Elegant Properties seeking for the relief of interest on delay period.
- 2.This project is not registered under RERA.
- 3.Said project is situated at Coles Road, Frazer Town, Bengaluru.



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

4. The complainant had purchased a 3 BHK flat in the project of respondent by entering into an sale and construction agreement both dated 20/10/2016 and had paid the respondent an amount of Rs.97,47,570/- (Rupees Ninety Lakhs Forty Seven Thousand Five Hundred and Seventy only) of the sale consideration on various dates. As per sale agreement the respondent was under obligation to handover possession on 18-10-2018. Though more than five years have been lapsed, the respondent has failed to complete the project as agreed and to handover the possession of the said flat to the complainant along with the occupancy certificate. Hence, the complainant had approached this Authority to direct the respondent to pay interest on delay period upto the possession. Hence, this complaint.
5. After registration of the complaint, in pursuance of the notices, the respondent did not appear before this Authority and remained absent hence the respondent was placed ex-parte.
6. This matter is heard on 25-05-2023, 20-06-2023 and 02-08-2023.
7. In support of his claim, the complainant has produced documents such as copies of agreements of both construction and sale, copy of allotment letter issued by the



respondent, payment receipts and memo of calculation as on 19-05-2023.

8. **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?


9. **My answer to the above points are as under:-**

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

REASONS

10. **My answer to Point No. 1:-** It is undisputed that the respondent has failed to handover possession of the said flat to the complainant herein within agreed time even after receiving substantial sale consideration. As per the terms of agreement of sale between the parties, the possession of the said flat had to be handed over before the end of October 2018. When the respondent has failed to handover possession as agreed by them, the complainant has approached this forum for direction to the respondent for interest on delay period.

11. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainant has already paid substantial sale consideration to the respondent. Having accepted the said amount and

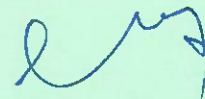


failure to keep up promise to handover possession of the said flat even after five years, certainly entitles the complainant herein for interest on delay period. The complainant has claimed Rs.39,19,754/- (Rupees Thirty Nine Lakhs Nineteen Thousand Seven Hundred and Fifty Four only) as interest on delay period vide their memo of calculation as on 19/05/2023 calculated from 18/10/2018 to 18/11/2022. Despite opportunities were given, the respondent has not filed his memo of calculation. Having regard to all these aspects, this Authority concludes that the complainant is entitled for interest on delay period from 18/10/2018 to 20/11/2022.

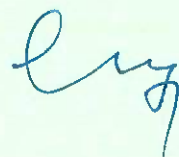
12. As per decision of Hon'ble Supreme Court in appeal No.6750-57/2021, M/S Newtech Promoters vs The State Of Uttar Pradesh it is held as under

13. *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'.*

14. The said principle laid down in the above decision is aptly applicable to the present case on hand.



15. As per sec.18 of RERA Act, the respondent is liable to pay interest on 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 had paid Rs. 97,47,570/- (Ninety Seven Lakhs Forty Seven thousand and Five Hundred and Seventy only) to the respondent towards entire sale consideration.
16. In response to the notice, the respondent did not appear before the Authority to participate in the proceedings by filing statement of objection, producing documents on his behalf etc.,. He has not at all disputed the claim of complainant in any manner. Therefore, the claim of complainant remained unchallenged and same is corroborated with cogent evidence. Hence, there is no reason to discard the same.
17. Therefore, it is incumbent upon the respondent to pay interest on delay period to the complainant from 18-10-2018 till 20-11-2022.
18. A thorough verification of the documentary evidence submitted by the complainant reveals that his claim is genuine. Having regard to all these aspects, this Authority concludes that the complainant is entitled for interest on delay period as submitted vide his memo of calculation as on 19-05-2023.



Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	9,747,570	18-10-2018
2	TOTAL DELAYED INTEREST as on 20/11/2022	39,19,754	

Interest Calculation						
S. NO	FROM DATE	TO DATE	NO. OF DAYS	MC LR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 97,47,570/						
1	18-10-2018	18-11-2018	31	8.7	10.7 as on 01-10-2018	88,582
2	18-11-2018	18-12-2018	30	8.7	10.7 as on 01-11-2018	85,725
3	18-12-2018	18-01-2019	31	8.75	10.75 as on 10-12-2018	88,996
4	18-01-2019	18-02-2019	31	8.75	10.75 as on 10-01-2019	88,996
5	18-02-2019	18-03-2019	28	8.75	10.75 as on 10-02-2019	80,384
6	18-03-2019	18-04-2019	31	8.75	10.75 as on 10-03-2019	88,996
7	18-04-2019	18-05-2019	30	8.7	10.7 as on 10-04-2019	85,725
8	18-05-2019	18-06-2019	31	8.65	10.65 as on 10-05-2019	88,168
9	18-06-2019	18-07-2019	30	8.65	10.65 as on 10-06-2019	85,324

10	18-07-2019	18-08-2019	31	8.6	10.6 as on 10-07-2019	87,754
11	18-08-2019	18-09-2019	31	8.45	10.45 as on 10-08-2019	86,513
12	18-09-2019	18-10-2019	30	8.35	10.35 as on 10-09-2019	82,921
13	18-10-2019	18-11-2019	31	8.25	10.25 as on 10-10-2019	84,857
14	18-11-2019	18-12-2019	30	8.2	10.2 as on 10-11-2019	81,719
15	18-12-2019	18-01-2020	31	8.2	10.2 as on 10-12-2019	84,443
16	18-01-2020	18-02-2020	31	8.2	10.2 as on 10-01-2020	84,443
17	18-02-2020	18-03-2020	29	8.15	10.15 as on 10-02-2020	78,608
18	18-03-2020	18-04-2020	31	8.05	10.05 as on 10-03-2020	83,201
19	18-04-2020	18-05-2020	30	7.7	9.7 as on 10-04-2020	77,713
20	18-05-2020	18-06-2020	31	7.55	9.55 as on 10-05-2020	79,062
21	18-06-2020	18-07-2020	30	7.3	9.3 as on 10-06-2020	74,508
22	18-07-2020	18-08-2020	31	7.3	9.3 as on 10-07-2020	76,992
23	18-08-2020	18-09-2020	31	7.3	9.3 as on 10-08-2020	76,992
24	18-09-2020	18-10-2020	30	7.3	9.3 as on 10-09-2020	74,508
25	18-10-2020	18-11-2020	31	7.3	9.3 as on 10-10-2020	76,992
26	18-11-2020	18-12-2020	30	7.3	9.3 as on 10-11-2020	74,508

27	18-12-2020	18-01-2021	31	7.3	9.3 as on 10-12-2020	76,992
28	18-01-2021	18-02-2021	31	7.3	9.3 as on 10-01-2021	76,992
29	18-02-2021	18-03-2021	28	7.3	9.3 as on 10-02-2021	69,541
30	18-03-2021	18-04-2021	31	7.3	9.3 as on 10-03-2021	76,992
31	18-04-2021	18-05-2021	30	7.3	9.3 as on 10-04-2021	74,508
32	18-05-2021	18-06-2021	31	7.3	9.3 as on 15-05-2021	76,992
33	18-06-2021	18-07-2021	30	7.3	9.3 as on 15-06-2021	74,508
34	18-07-2021	18-08-2021	31	7.3	9.3 as on 15-07-2021	76,992
35	18-08-2021	18-09-2021	31	7.3	9.3 as on 15-08-2021	76,992
36	18-09-2021	18-10-2021	30	7.3	9.3 as on 15-09-2021	74,508
37	18-10-2021	18-11-2021	31	7.3	9.3 as on 15-10-2021	76,992
38	18-11-2021	18-12-2021	30	7.3	9.3 as on 15-11-2021	74,508
39	18-12-2021	18-01-2022	31	7.3	9.3 as on 15-12-2021	76,992
40	18-01-2022	18-02-2022	31	7.3	9.3 as on 15-01-2022	76,992
41	18-02-2022	18-03-2022	28	7.3	9.3 as on 15-02-2022	69,541
42	18-03-2022	18-04-2022	31	7.3	9.3 as on 15-03-2022	76,992
43	18-04-2022	18-05-2022	30	7.4	9.4 as on 15-04-2022	75,309




44	18-05-2022	18-06-2022	31	7.5	9.5 as on 15-05-2022	78,648
45	18-06-2022	18-07-2022	30	7.7	9.7 as on 15-06-2022	77,713
46	18-07-2022	18-08-2022	31	7.8	9.8 as on 15-07-2022	81,131
47	18-08-2022	18-09-2022	31	8.0	10.0 as on 15-08-2022	82,787
48	18-09-2022	18-10-2022	30	8.0	10.0 as on 15-09-2022	80,117
49	18-10-2022	18-11-2022	31	8.25	10.25 as on 15-10-2022	84,857
50	18-11-2022	20-11-2022	2	8.35	10.35 as on 15-11-2022	5,528
					TOTAL DELAYED INTEREST as on 20/11/2022	39,19,754

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

17. **My answer to point No.2:-** In view of the above discussion, I am of the opinion that this complaint deserves to be allowed. Hence, I 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/UR/211126/0008642** is hereby allowed.



The Respondent is directed to pay a sum of **Rs.39,19,754/- (Rupees Thirty Nine Lakhs Ninteen Thousand Seven Hundred and Fifty Four only)** to the complainant within 60 days from the date of this order.

The complainant is at liberty to initiate action for recovery in accordance with law if the respondent fails to comply with the order of this Authority.

No order as to costs.

  
(G R REDDY, IRS)  
Member, K-RERA

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