

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 30TH OCTOBER 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/200928/0006695

COMPLAINANT.....

**SUBBARANJAN SAHOO
A-502, CENTURY INDUS APARTMENTS
PATTANGERE VILLAGE
KENGARI HOBLI
BANGALORE-560098.**

**(BY MS. SNEHA NAGARAJ,
MR.HARIKRISHNA PRAMOD,
MR.CHETAN CHANDRASHEKAR
ADVOCATES, FRONTIER LEGAL)**

Vs

RESPONDENT.....

**M/S VINAYAKA BUILDERS & DEVELOPERS
3/1, 4TH FLOOR, JP TECHNO PARK
MILLERS ROAD, VASANT NAGAR
BANGALORE-560052.**

**(BY MR. CHANDAN & MS.MEDHINI
PRUTHVI NARAYAN, ADVOCATES)**

*** * * * ***

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "**CENTURY INDUS PHASE-2**" developed by **M/S VINAYAKA BUILDERS & DEVELOPERS SITUATED AT Sy.No.62, Pattangere Village, Bangalore South Taluk, Bangalore Urban District** for the relief of interest on delay period.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/310/PR/170905/000135 valid till 31/12/2018. The Authority has further extended its registration for a further period of 12 months i.e. till 31/12/2019.

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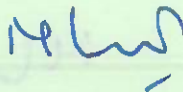
ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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Brief facts of the complaint are as under:-

3. The complainant had purchased a flat in the project of respondent and entered into an agreement of sale on 22/09/2017 and has paid an amount of Rs.72,09,440/- (Rupees Seventy Two Lakh Nine Thousand Four Hundred and Forty only) on various dates to the respondent till date. The complainant submits that the project was registered with RERA subsequently and the construction was delayed. The respondent was supposed to hand over the possession of the flat with occupancy certificate to the complainant by October 2018 with the grace period of three months i.e. latest by January 2019 but the respondent has handed over the possession of the flat to the complainant only on 10/01/2019 without permanent power supply and proper water facilities. The respondent has failed to complete the project and deliver the possession of the flat on time as agreed. The complainant submits that the respondent has obtained occupancy certificate from the competent authority on 13/12/2019. The complainant submits that the respondent has not adhered to the project specifications and has refused to pay interest on delay period as per RERA. The complainant submits that he has suffered financial stress and mental agony due to the delay in handing over possession of the flat. The complainant submits that the respondent instead of calculating interest on delay period as per RERA is calculating at Rs.2/- per sq.ft as compensation for delay. Thus, the complainant has approached this Hon'ble Authority and prays for directions to the respondent to pay delay period interest according to the link provided by RERA. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its



representative/counsel and has filed statement of objections as under:

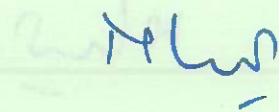
5. The respondent denies the entire allegations made against them by the complainant as false. The respondent submits that they are the absolute owner of all the piece and parcel of residentially converted land in Sy.No.62 of Pattanagere Village, Kengeri Hobli, Bangalore South Taluk measuring 6 acres. The respondent submits that the BDA has sanctioned master plan dated 25/2/2012 and modified work order for all the Towers dated 31/5/2012 for the construction of multi-storeyed residential buildings. The respondent also submits that with an intention of developing the project in a phased manner they have obtained sanction plan dated 01/04/2013 from BBMP.
6. The respondent contends that they have completed the development of the first phase i.e. Block C & D as per sanctioned plan and are now developing Phase-II of the project i.e. Block A & B. The respondent also contends that the project has been registered under RERA. The respondent submits that the complainant after fully satisfying himself voluntarily agreed to purchase the flat and entered into an agreement of sale on 24/10/2017 for purchase of a flat for a total sale consideration of Rs.72,09,440/- subject to the terms and conditions in the said agreement.
7. The respondent submits that the complainant has sought for the following reliefs:-
 8. To pay Rs.7,86,927/- as interest on delay period in handing over possession;
 9. Compensation of Rs.4,00,000/- for non-adherence to specifications as promised and inferior quality of doors and door frames in the complainant's flat;

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10. Compensation of Rs.3,00,000/- for financial duress and mental agony;
11. Rectify all the defects in the project and to complete the project as per specifications in the brochure.
12. The respondent contends that when the validity of the registration was in force, the complainant was requested to get the sale deed registered. The respondent contends that the occupancy certificate was obtained from the competent authority dated 13/12/2019 within the validity of the RERA registration and thereby there was no delay in obtaining occupancy certificate and no delay in handing over the flat to the complainant.
13. As regards non-adherence to promised project specification and installation of inferior quality doors/door frames, the respondent contends that the doors and door frames installed is of the standard quality as certified by various authorities and as such, the respondent has complied with all the specifications and denies the allegations made by the complainant. To substantiate their claim, the respondent has also produced relevant certificates/documents.
14. The respondent submits that the complainant before taking possession had visited and inspected the flat, signed all check lists and flat handover certificate and found it to be satisfactory, whereas the complainant is now making allegations against the respondent to tarnish the image of the respondent and to reap fruits from the instant complaint. The respondent submits that the construction work was delayed due to the contractors issue for which the Hon'ble Authority extended validity of registration. The respondent submits that they have obtained all necessary approvals from BWSSB, BESCPO, BSNL etc.



15. The respondent submits that the complainant is not entitled to claim any interest from respondent as the possession of the flat was handed over within the stipulated time as agreed in the agreement for sale and that the occupancy certificate was obtained on 13/12/2019 from the competent authority within the extension period of registration by RERA i.e. 31/12/2019.
16. The respondent contends that the complainant is not entitled for seeking relief sought in light of the Agreement of Sale dated 22/09/2017 and submits that there was no delay in handing over possession of the flat to the complainant, as the sale deed was executed on 10/01/2019 within the stipulated time. The respondent prays the Hon'ble Authority to dismiss the complaint on the above facts in the interest of justice and equity.
17. The complainant in his rejoinder to the statement of objections filed by the respondent has submitted that the respondent has stated that the flat was handed over on 10/01/2019 instead of agreed date October 2018 with a grace period of three months i.e. latest by January 2019 and has refused to pay any interest on delay period. The complainant submits that Section 18 of RERA Act does not bar the respondent from paying compensation even if the extension is granted by RERA. The complainant submits that the respondent without obtaining the consent nor informing the complainant has approached RERA for seeking extension.
18. The complainant further submits that the respondent has taken contention of force majeure events on the ground that the contractors delayed the construction work. The delay is solely attributed to the respondent and is liable to pay interest for delay period.

19. The complainant also submits that the respondent has contended that they had not agreed to provide Ghana teakwood doors and door frames and in Schedule 'D' of the agreement to sell the specification of doors clearly indicate that the respondent had promised Ghana teakwood doors and door frames. Thus the complainant contend that the respondent cannot evade from its promise and should provide as promised or pay compensation of Rs.4,00,000/- towards the defect.
20. The complainant submits that the respondent has not provided several amenities, not rectified the defects in the common areas. The complainant prays the Hon'ble Authority to undertake necessary repairs/rectifications of the identified defects in the apartment complex.
21. The complainant prays the Hon'ble Authority for compensation of Rs.3,00,000/- towards financial damages and mental agony suffered by him.
22. In support of their defence, the respondent has submitted copies of the Sanctioned Plan, Agreement of Sale, Sale Deed, Occupancy Certificate, RERA registration & extension certificates, certificate of standard quality and report of NTH and apartment handing over manual.
23. In support of his claim, the complainant has produced documents such as copies of Agreement of Sale, Sale Deed, BBMP sanctioned plan, brochure of the project, occupancy certificate, email correspondences with the respondent, progress report for October and memo of calculation as on 24/08/2022 (calculated from 31/10/2018 till 24/08/2022) which was not accepted by the Hon'ble Authority as the delay period interest should have been calculated from

31/01/2019 till 10/01/2019, the date on which the sale deed was executed.

24. This case was heard on 25/8/2022, 20/10/2022, 10/1/2023, 14/2/2023, 11/4/2023, 31/5/2023, 6/7/2023, 17/8/2023 and 11/10/2023. Heard arguments of both sides.

25. 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?

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

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

REASONS

1. **My answer to Point No.1:-** From the materials placed on record, it is apparent that the respondent was supposed to handover the flat to the complainant by October 2018 with the grace period of three months i.e. latest by 31/01/2019. The respondent has handed over the possession of the flat to the complainant by 10/01/2019 well within the stipulated time as agreed in the agreement of sale.

27. From the averments of the complaint and the copies of agreement between the parties and the sale deed dated 10/01/2019, the respondent has fulfilled his assurance and has handed over the flat to the complainant and executed sale deed well within the stipulated time, certainly does not entitle the complainant herein for any delay period interest.

28. During the process of the hearing, the Hon'ble Authority has perused the statement of objections filed by the respondent. The

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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 from any ambiguity and vagueness. Here, in this case, the respondent has complied with the terms of the said agreement of sale. Therefore, the Authority has accepted the contentions of the respondent made in their statement of objections.

29. The complainant vide his memo of calculation as on had claimed an amount of Rs.26,97,657/- as delay period interest calculated from 31/10/2018 to 24/08/2022. The Authority did not accept the memo of calculation filed by the complainant.

30. Having regard to all these aspects, this Authority concludes that the complainant is not entitled for delay period interest in view of the fact that the respondent has executed sale deed on 10/1/2019 and handed over the flat to the complainant well within the stipulated time as agreed.

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

32. **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/200928/0006695** is partly allowed.

1. As regards the claim of interest on delay period by the complainant, the claim is hereby dismissed as the sale deed has been executed and flat handed over on

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10/01/2019 well within the stipulated time as agreed in the agreement for sale.

2. The respondent is directed to complete the project as per specifications and rectify the defects, if any.
3. No order as to the costs.

(Neelmani N. Raju)
Member, K-RERA

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Member, X X X X X