

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5

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

Dated 18TH October 2023

COMPLAINT NO: CMP/220124/0008858

COMPLAINANTS...

**1. ROHIT SIVARAMAN
2. SANJUNA SUNIL
No. 006, C-Block,
Colorado Apartment,
Hennur Cross, Hennur,
Bangalore-560043.
DISTRICT: Bengaluru.
STATE: KARNATAKA**

(In Person)

Vs

RESPONDENT.....

**AAPTHA VENTURES
No. 147, 1st Floor, MCECHS Layout,
SRE Nagar, BENGALURU.**

(Ex-parte)

1. This complaint is filed under section 31 of the RERA Act against the project "**Aaptha Landmark**" developed by M/s Aaptha Ventures, seeking for the relief of interest on delay period.
2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/1251/446/PR/190301/002458.
3. Said project is situated at Sy No. 27/1P, Chikkagubbi Village, Bidrahalli Hobli, Benglauru East, Bengaluru Urban.

Brief facts of the complaint are as under:-



4. The complainants had purchased a flat bearing No.ALN(EBB)SR. 174/2014-15, in the project of respondent by entering into a agreement of sale and construction both dated 05/10/2020 for sale consideration of Rs. 57.00.000/- (Rupees Fifty Seven Lakhs only). At the time of entering into agreement of sale and construction agreement, the complainant had paid the sum of Rs.11,40.000/- (Rupees Eleven Lakhs Forty Thousand only) on the various dates to the respondent. The respondent was supposed to handover the possession of the said flat to the complainant on March 2021. Though more than two year has 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, this Authority had issued notice to both the parties to appear before this Authority. In pursuance of the notice, the complainants have appeared before the Authority and filed Memo of Calculation, Agreements of Sale and construction, payment receipts and copies of email conversation between both the parties etc. The respondent did not appear before this Authority and remained absent. Hence, the respondent was placed ex-parte.

6. In support of his claim, the complainant has produced documents such as copies of agreement of construction and sale, payment receipts and memo of calculation as on 25-04-2023.

agreed to pay late penal charges at the rate of 18% per annum for the delay payments.

16. 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'.

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

18. 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 had paid Rs. 49,90,340/- (Rupees Forty Nine Lakhs Ninety Thousand Three Hundred and Forty Four only) to the respondent towards entire sale consideration.

17. The complainant has claimed Rs.6,98,883/- (Rupees Six Lakhs Eighty Eight Thousand Eight Hundred and Eighty Three only) as delay period interest vide their memo of calculation as on 25/04/2023 calculated from 30/06/2021 to 25/04/2023. Despite opportunities were given, the respondent has not filed his

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7. This matter is heard on 28-06-2023 and 17-08-2023.
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

14. My answer to Point No. 1:- The complainant has approached this forum seeking for the relief of interest on delay period. The grounds urged are that the complainant has booked a flat bearing No. bearing No.ALN(EBB)SR.174/2014-15 in the project of the respondent by entering into an agreement of sale on 05/10/2020. As per the said agreement, the respondent was supposed to handover possession of the said flat to the complainant before 30/06/2021. But the respondent has not handed over possession of the said flat to the complainant till date.

15. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 05/10/2020. 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 June 2021. In addition as per clause 2(a) of construction agreement, in the event of delay, the respondent had

memo of calculation. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest from 30/06/2021 to 25/04/2023 and later on.

18. The complainant has established his claim by producing cogent evidence i.e. agreement of sale and construction dated 05/10/2020, payment receipts and memo of calculation etc.,.

19. A thorough verification of the documentary evidence placed 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 25/04/2023.

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	39,40,000	30-06-2021
3	TOTAL DELAYED INTEREST as on 25/04/2023	6,98,883	

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 3,940,000						
1	30-06-2021	30-07-2021	30	7.3	9.3 as on 15-06-2021	30,116
2	30-07-2021	30-08-2021	31	7.3	9.3 as on 15-07-2021	31,120
3	30-08-2021	30-09-2021	31	7.3	9.3 as on 15-08-2021	31,120
4	30-09-2021	30-10-2021	30	7.3	9.3 as on 15-09-2021	30,116
5	30-10-2021	30-11-2021	31	7.3	9.3 as on 15-10-2021	31,120
6	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	30,116
7	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	31,120
8	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	29,112
9	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	28,108

10	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	31,120
11	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	30,440
12	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	31,789
13	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	31,412
14	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	32,793
15	28-08-2022	28-09-2022	31	8	10.0 as on 15-08-2022	33,463
16	28-09-2022	28-10-2022	30	8	10.0 as on 15-09-2022	32,383
17	28-10-2022	28-11-2022	31	8.25	10.25 as on 15-10-2022	34,299
18	28-11-2022	28-12-2022	30	8.35	10.35 as on 15-11-2022	33,516
19	28-12-2022	28-01-2023	31	8.6	10.6 as on 15-12-2022	35,470
20	28-01-2023	28-02-2023	31	8.6	10.6 as on 15-01-2023	35,470
21	28-02-2023	28-03-2023	28	8.7	10.7 as on 15-02-2023	32,340
22	28-03-2023	25-04-2023	28	8.7	10.7 as on 15-03-2023	32,340
					TOTAL DELAYED INTEREST as on 25/04/2023	6,98,883

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/220124/0008858** is hereby allowed.

- Respondent is directed to pay a sum of **Rs. 6,98,883 /-** (Rupees Six Lakhs Ninety Eight Thousand Eight Hundred and Eighty Three only) towards delay period interest as on

25/04/2023 to the complainant within 60 days from the date of this order.

2. Further, the respondent is directed to complete all the pending works immediately and provide amenities as agreed.
3. 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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G R REDDY, IAS
Member, K-REDA

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