

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> DECEMBER 2023**

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

**COMPLAINT NO.: 01092/2023**

**COMPLAINANTS.....**

**ASHA JOSEPH &  
VARGHESE KOSHY  
206, CHINNU PARADISE  
NEAR ALPINE ECO APARTMENT  
DODDANEKUNDI  
BANGALORE-560037.**

**(IN PERSON)**

**Vs**

**RESPONDENT.....**

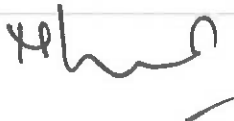
**MAARS INFRA DEVELOPERS  
PRIVATE LIMITED  
NO.3, 12<sup>TH</sup> CROSS, 6<sup>TH</sup> MAIN  
MALLESHWARAM  
BANGALORE-560003.**

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

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

**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 BLUE**" developed by **MAARS INFRA DEVELOPERS PRIVATE LIMITED** on Sy.No.11(P), Seeghalli Village, K.R. Puram Hobli, Bangalore East, 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/1251/446/PR/180728/001966 valid till



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16/7/2021. The project was extended due to Covid-19 for a period of 9 months till 16/4/2022. The Authority has extended its registration for a further period of 12 months i.e. till 16/4/2023. The Authority has further permitted to continue the development work and obtain occupancy certificate till 30/11/2023.

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

3. The complainants have purchased a flat bearing No.D.04.01, 4<sup>th</sup> Floor, Tower-D in the project of the respondent and entered into an agreement for sale on 16/03/2019 and have paid an amount of Rs.74,18,028/- (Rupees Seventy Four Lakh Eighteen Thousand and Twenty Eight only) to the respondent on various dates. The respondent was supposed to hand over the possession of the flat to the complainant by 14/3/2022 with six months grace period i.e. latest by 14/9/2022. The project completion has been delayed with no proper amenities, leakages of water from bathroom pipe causing seepages and not handing over the promised infrastructure as mentioned in the brochure. The respondent handed over the flat and executed sale deed in favour of the complainants on 25/5/2023. Thus the complainants have approached this Hon'ble Authority and pray for direction to the respondent to pay interest for the delay period. 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:

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5. The Respondent submits that they had agreed to deliver the apartment on 21<sup>st</sup> April 2021 but was delayed due to unforeseeable circumstances which led to delay in the development of the project. The respondent submits that the issue relating to presence of rock embedded 6 – 8 meters in the ground took 5 months for excavation. The project was further delayed due to Covid-19 pandemic and lockdown imposed through-out the country and 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.
6. The respondent submits that there was threat from the local political elements in the vicinity of the construction placedue to which the project was further delayed. The respondent contends that the customers were aware of the fact and difficulties faced in entering the premises of the project. The respondent submits that with all these hurdles faced by them, they have completed the project and the complainants have registered the sale deed dated 25/5/2023 and possession of the flat has been handed over to the complainants. The respondent has also obtained Final Occupancy Certificate from the competent authority dated Nil (signed by the JD, Town Planning-North, BBMP dated 2/6/2023).
7. The respondent prays the Hon'ble Authority not to grant the relief sought for by the complainants on the above facts and dismiss the complaint.
8. The complainants in their rejoinder to the statement of objections filed by the respondent have submitted that the respondent has wrongly accused them of immediate release of accrued compensation due to loss of potential income. The respondent has failed to disclose the



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facts to the complainants. The respondent had agreed to complete the construction and handover the flat by 21<sup>st</sup> April, 2021 and went on changing it several times. Finally the flat was registered in May 2023. The respondent sent an email only after repeatedly asking them about the delay in work. The complainants submit that the respondent has not fully completed the project and is still lagging on the infrastructure development. The respondent while selling the property mentioned on the brochure "Resort Like Living" but in the email the COO has mentioned "Value Home".

9. In support of their defence, the respondent has submitted copies of the Agreement for Sale, final occupancy certificate issued by BBMP, Sale Deed dated 25/5/2023, RERA registration/extension certificates.

10. In support of their claim, the complainants have produced documents such as copies of Agreement for Sale, payment receipts, statement of account dated 14/4/2023 issued by the respondent company for having received payments from the complainants, email correspondence with the respondent and memo of calculation as on 10/10/2023.

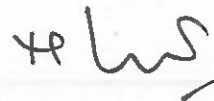
11. This case was heard on 10/10/2023 and 05/12/2023. Heard arguments of both sides.

**12. On the above averments, the following points would arise for my consideration:-**

1. Whether the complainants are entitled for the relief claimed?
2. What order?

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

1. In the Affirmative.



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2. As per final order for the following

**REASONS**

14. **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 flat within 14/3/2022 with a grace period of six months i.e. by 14/9/2022, the respondent has failed to abide by the terms of the agreement and not handed over the possession of the flat to the complainants as agreed, but has executed registration of sale deed in favour of the complainants on 25/5/2023, certainly entitles the complainants herein for interest on delay period.

15. The Authority has perused the statement of objections filed by the respondent and written submission/rejoinder filed by the complainants. 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 complied with the terms of the said agreement of sale. Therefore, the Hon'ble Authority has not accepted the contentions of the respondent made in their statement of objections.

16. As per decision of Hon'ble Supreme Court in Appeal No.6750-57/2021, Newtech Promoters Vs the State of UP and other, 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 –



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- (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 month's delay in handing over possession at such rates as may be prescribed."
17. The complainants vide their memo of calculation as on 10/10/2023 have claimed an amount of Rs.13,18,266/- as interest on delay period calculated from 19/9/2021 to 26/5/2023, the date on which the sale deed was executed by the respondent.
18. The Hon'ble Authority has noticed that in the agreement for sale actual date of possession is 14/3/2022 with a grace period of six months i.e. 14/9/2022. As such, the calculation for delay period interest should have been done from 14/9/2022 to 25/5/2023, the date on which the sale deed was executed.
19. The Hon'ble Authority has directed the respondent to file their memo of calculation by 8<sup>th</sup> December 2023. The respondent has not filed their memo of calculation despite several opportunities given.
20. Having regard to all these aspects, the Authority concludes that the complainants are entitled for delay period interest from 14/9/2022 to 25/5/2023.
21. Therefore, it is incumbent upon the respondent to pay interest on delay period determined as under:

Payment Details

*Handwritten signature*



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S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	79,32,841	14-09-2022
2	TOTAL DELAYED INTEREST as on 25/05/2023	5,73,506	

InterestCalculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 79,32,841						
1	14-09-2022	14-10-2022	30	8	10.0 as on 15-08-2022	65,201
2	14-10-2022	14-11-2022	31	8	10.0 as on 15-09-2022	67,374
3	14-11-2022	14-12-2022	30	8.25	10.25 as on 15-10-2022	66,831
4	14-12-2022	14-01-2023	31	8.35	10.35 as on 15-11-2022	69,732
5	14-01-2023	14-02-2023	31	8.75	10.75 as on 15-08-2023	72,427
6	14-02-2023	14-03-2023	28	8.6	10.6 as on 15-01-2023	64,505
7	14-03-2023	14-04-2023	31	8.7	10.7 as on 15-02-2023	72,091
8	14-04-2023	14-05-2023	30	8.7	10.7 as on 15-03-2023	69,765
9	14-05-2023	25-05-2023	11	8.7	10.7 as on 15-04-2023	25,580
					TOTAL DELAYED INTEREST as on 25/05/2023	5,73,506

*Handwritten signature*

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

23. **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.**01092/2023** is hereby allowed.

Respondent is directed to pay a sum of **Rs.5,73,506/- (Rupees Five Lakh Seventy Three Thousand Five Hundred and Six only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 14/9/2022 till 25/5/2023, the date on which the sale deed was executed by the respondent.

The complainants are 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