

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5

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

Dated 11th DECEMBER, 2023

COMPLAINT NO: CMP/221103/0010171

COMPLAINANT...

**MAMTA SHUKLA
B 201, ABAN HUMMING BEES
SOMASUNDARAPALYA,
BENGALURU-560102**

(Party in person)


Vs

RESPONDENT.....

**MANTRI DEVELOPERS PRIVATE
LIMITED; MANTRI HOUSE,
41, VITTAL MALLYA ROAD,
BENGALURU-560001**

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "MANTRI WEBCITY2A" developed by MANTRI DEVELOPERS PRIVATE LIMITED" for the relief of delay period interest.
2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/310/PR/171015/000608.
3. This project is situated at, Hennur Main Road, Near Southern Asian Bible College, Bengaluru South, Bengaluru Urban.

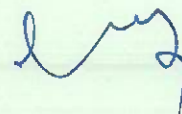


4. **Brief facts of the complaint are as under:** The complainant had purchased a flat bearing No. G2205, in the project of "MANTRI WEBCITY PARCEL 2A" developed by MANTRI DEVELOPERS PRIVATE LIMITED" by entering into an Agreement of Sale and construction both dated 27-11-2015 for sale consideration of Rs. 64,95,919/- (Rupees Sixty four lakhs Ninety five thousand Nine hundred nine only). At the time of entering into agreement of sale and construction agreement, the complainant had paid the sum of Rs.6,93,064/- (Rupees Six Lakhs Ninety three thousand Sixty four only) on 10-11-2015 Rs. 2,00,000/- and on 27-11-2015 Rs. 4,93,064/- to the respondent. The respondent was supposed to handover the possession of the said flat to the complainant on 30-11-2017. Though more than 5 years 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. Hence, the complainant had approached this Authority to direct the respondent to pay interest on delay period upto the possession. Further, the complainant requested to this Authority for rent of Rs. 25,000/- from the date of actual possession date i.e. 30-11-2017 and Cost and Expenses of Rs. 30,000/-. Hence, this complaint.

5. After registration of the complaint, notices were issued to both complainant and respondent for appearance before this Authority. In pursuance of the notices, the complainant had appeared before the Authority and files written submission along with documents supporting to his claim. The respondent had appeared through its counsel and it has not chosen to file its written submission, MOC and supporting documents to defend its claim.

6. In support of his claim, the complainant has produced documents such as copies of Agreement of Sale, Construction Agreement, Tripartite Agreement, Bank Statements, payments receipts and Memo of Calculation as on 23-07-2023.

7. The opportunity is given to respondent for filing Statement of objection together with supporting documents. In spite of sufficient opportunities given to the



respondent. The respondent has not defend its case by filing written submission / Statement of objection and Memo of Calculation.

8. This matter was heard on 03-08-2023 and 10-10-2023.

9. **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?

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

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

REASONS

11. **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. G2205 in the project of the respondent by entering into an Agreement of sale on 27-11-2015. As per the said agreement, the respondent was supposed to handover possession of the said flat to the complainant before 30-11-2017. But the respondent has handed over possession of the said flat to the complainant even after lapse of five years.

12. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 27-11-2015. 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 on or before 30th Nov. 2017.



14. The complainant seeking Rs. 25,000/- (Rupees Twenty five thousand only) rent per month from the date of agreement till the date of possession. The complainant seek an appropriate relief by filing a separate complaint before the Adjudicating Officer who is empowered to adjudge the compensation under the provisions of the Act.

15. The complainant has sought a relief of Rs. 30,000/- (Rupees Thirty thousand only) to defray the litigation expenses. It is noted that the complainant has booked the apartment in the year 2015 for a total consideration of Rs. 69,95,340/-. It is submitted by the complainant that about Rs.48,96,738/- was paid which accounted to 80% of the basic cost of the apartment. These facts brought out in the complaint indicate that the complainant was left with no choice but to file a complaint before the Authority and pursue the same. Having regard to all the facts the Authority is of the view that the complainant is entitled for some of relief in the form of payment of litigation expenses by the promoter-respondent. Accordingly, it is hereby orderd that respondent-promoter shall pay a sum of Rs. 30,000/- (Rupees Thirty thousand only) to the complainant on account of litigation expenses.

13. 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'.

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 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. 48,96,738/- (Rupees Forty lakhs Ninety Six thousand Seven hundred thirty eight only) to the respondent towards entire sale consideration.

16. The complainant has claimed Rs.76,24,601/- (Rupees Seventy six lakhs Twenty four thousand Six hundred one only) as delay period interest vide their memo of calculation as on 23-07-2023 calculated from 27-11-2015 to 23-07-2023. 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 delay period interest from 27-11-2015 to 23-07-2023 and later on.

17. The complainant has established his claim by producing cogent evidence i.e. agreement of sale and construction dated 10/05/2017, payment receipts and memo of calculation etc.,.

18. 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 her memo of calculation as on 23-07-2023.

Payment Details			
S.N O	RECEIPT NO.	DATE	AMOUNT
1.	WEBCITY 8073	11-11-2015	2,00,000/-
2.	WEBCITY 8247	28-11-2015	4,93,064/-

3.	WEBCITY 8309	06-12-2015	6,470/-
4.	WEBCITY 8526	22-01-2016	41,58,382/-
5.	WEBCITY 8577	31-01-2016	38,822/-
		TOTAL AMOUNT PAID	48,96,738/-
		INTEREST AS ON 23-07-2023	27,27,863/-
		TOTAL	76,24,601/-

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

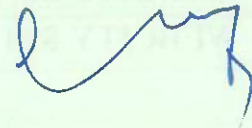
20. **My answer to point No.2:-** In view of the above discussion, I am of the opinion that this complaint deserves to be allowed. Hence, I proceed to pass the following:

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/221103/0010171** is hereby allowed. Respondent is directed to pay a sum of **Rs. 76,24,601/- (Rupees Seventy Six lakhs Twenty four thousand Six hundred one only)** towards delay period interest as on 23-07-2023 to the complainant within 60 days from the date of this order.


The respondent further directed to pay a sum of Rs. 30,000/- (Rupees Thirty thousand only) towards legal expenses to the Complainant.

The interest due from 24-07-2023 up to the date of final payment will be calculated as per MCLR + 2% till handing over of flat is to be given to the complainant.



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.

The complaint is allowed with Cost.


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

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