

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-4**

**PRESIDED BY SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN**

**Dated 20<sup>th</sup> DAY OF DECEMBER 2023**

**COMPLAINT No: CMP/ 221010/0010073**

**COMPLAINANTS..**

**P.K. CHAKKARAVARTHY &  
K.E. TULASI  
FLAT NO.G-25, ITTINA  
SARVA APARTMENTS-2  
4<sup>th</sup> CROSS, 4<sup>TH</sup> MAIN  
HONGASANDRA  
BOMMANAHALLI  
BENGALURU URBAN-560068.**

**(REP BY M. UMA SHANKAR  
ADVOCATE)**

**V/s**

**RESPONDENTS....**

**1.M/s S2 HOMES  
SY.NO: 136B1, 2<sup>ND</sup> CROSS  
ANANTHA NAGARA  
ELECTRONIC CITY PH2  
BENGALURU URBAN-560100**

**2. S. RAMAREDDY  
GPA HOLDER  
HEBBAGODI VILLAGE  
OPP: BIOCON LIMITED  
HOSUR MAIN ROAD  
ELECTRONIC CITY  
BENGALURU URBAN-560100**

**3. C. VIJAYA  
GPA HOLDER  
HEBBAGODI VILLAGE  
OPP: BIOCON LIMITED  
HOSUR MAIN ROAD  
ELECTRONIC CITY  
BENGALURU URBAN-560100**

*Handwritten signature*

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4. RAHUL R. REDDY  
GPA HOLDER  
HEBBAGODI VILLAGE  
OPP: BIOCON LIMITED  
HOSUR MAIN ROAD  
ELECTRONIC CITY  
BENGALURU URBAN-560100

5. R. RASHMI  
GPA HOLDER  
HEBBAGODI VILLAGE  
OPP: BIOCON LIMITED  
HOSUR MAIN ROAD  
ELECTRONIC CITY  
BENGALURU URBAN-560100

(EX-PARTE)

PROJECT NAME:

THE WATERGROVE

PROJECT REGISTRATION NO:

PRM/KA/RERA/1251/308/  
PR/180222/001666

### JUDGEMENT

1. This complaint is filed under section 31 of Real Estate (Regulation and Development) Act, 2016 against the project “ **THE WATERGROVE**” developed by “ **M/s S2 HOMES**” for the relief of interest on delay period.
2. Respondent no.1 is promoter/developer/builder and respondent nos. 2 to 5 are GPA holders.
3. The promoter has developed this project in the limits of Sy.Nos.136/3 and 136/4, situated at Kammasandra Village, Attibele Hobli, Anekal Taluk, Bengaluru District.

*Ans*

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4. The gist of the complaint is that the complainants have booked a flat bearing No.T-21 situated on the 3rd floor, TYPE-E, D-Block in the project known as ' **THE WATERGROVE**' and entered into an agreement for sale dated 10/5/2019 for a total sale consideration of Rs.57,65,550/- (Rs. Fifty seven lakhs sixty five thousand five hundred fifty only). The complainants have paid an amount of Rs.1,00,000/- on 22/4/2019, Rs.9,53,100/- on 10/5/2019, Rs.1,00,000/- on 11/5/2019, Rs.20,17,943/- on 11/6/2019, Rs.50,000/- on 6/12/2019, Rs.8,15,000/- on 30/11/2020, Rs.7,67,000/- on 16/7/2021, Rs.97,676/- on 17/7/2021 and Rs.4,64,831/- on 8/5/2022 altogether Rs.53,65,550/- (Rs. Fifty three lakhs sixty five only) to the respondent-builder which has been duly acknowledged by him. The respondent was required to hand over the possession of the said flat to the complainants within 24 months from the date of agreement for sale dated 10/5/2019 i.e. by 10/5/2021. The complainants have also availed bank loan towards purchase of the said flat. It is contended that respondent had addressed a letter informing them that the possession of the flat has been pushed to December 2021. Further, the complainants were also saddled suddenly with a burden of having to pay EMI of Rs.36,553/-. Though the representatives promised to deliver the possession by the end of December 2021, they have miserably failed to keep up their promise to handover possession within the stipulated timeline. Therefore, the complainants have approached this Authority for the relief of direction to the respondent to pay interest on delay period and possession. Hence, this complaint.



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5. On perusal of the agreement for sale dated 10/5/2019, it is seen that the completion date is agreed as within 24 months i.e. by 10/5/2021. The promoter-respondent was required to complete the project and handover possession of the said flat to the complainants by 10/5/2021. In cases where in the respondent-promoter has failed to complete or unable to handover the possession of the flat to the allottee, this complaint is admissible for the relief in accordance with Section 18 of the Act.
6. After registration of the complaint, in pursuance of the notice, the respondents did not appear before this Authority during the hearings held on 23/01/2023, 17/2/2023, 01/3/2023, 11/4/2023, 5/5/2023, 23/5/2023, 12/6/2023, 18/8/2023, 11/9/2023 and on 11/10/2023 and have been continuously remained absent on all the dates of hearings and hence they have been placed as Ex-parte. Subsequently, the respondents have not put forth their defence before this Authority and have not taken any interest to file statement of objections, producing documents if any on their defence.
7. Heard arguments of the complainant.
8. In support of their claim, the complainants have produced documents such as (1) memo of calculation (2) copy of the sale agreement dated 10/5/2019 (3) copy of the ledger account issued by S2 Homes for the period from 1/4/2019 to 12/4/2021 (4) copy of the payment receipt dated 8/5/2022 for Rs.4,64,831/- by S2 Homes.



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9. 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?

10. **Findings on the above points are as under:-**

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

### **FINDINGS**

**11. Findings on point No.1:-** The complainants have approached this forum seeking for the relief of payment of interest on delay period and possession. The grounds urged are that the complainants have booked a unit flat no.T-21, Type-E, Third Floor, D-Block in the project "THE WATERGROVE" of the respondent-promoter for a total sale consideration of Rs.57,65,550/- (Rs. Fifty seven lakhs sixty five thousand five hundred fifty only). The builder was required to handover the said flat to the complainants within 24 months from the date of agreement of sale dated 10/5/2019 i.e by 10/5/2021. The builder has miserably failed to handover possession within the stipulated timeline.

12. Looking to the averments of agreement, parties herein have entered into an agreement of sale dated 10/5/2019. The agreement of sale is 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 dated 10/5/2019, the respondent was supposed to handover the possession of the said flat to the complainants by within 24 months i.e. by 10/5/2021. But the respondent had not completed



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and handed over the possession of the said flat to the complainant till date.

13 As per decision of the Hon'ble Supreme Court of India in appeal No.6750-57/2021, M/s Netwtech Promoters Vs The State of Uttar Pradesh, it is held as under:

**PARA-22.** *"If we take a conjoint reading of sub sections(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"*

*The said principle is aptly applicable to the present case on hand.*

14. As per Section 18 of RERA Act, the respondent is liable to pay interest for delay period. Since the claim of the complainant is supported with cogent materials, the delay in handing over possession being apparent, this Authority see no legal impediment in allowing the complaint as prayed. The complainant has paid an amount of Rs.53,65,550/- (Rs.Fifty three lakhs sixty five thousand five hundred fifty only) to the respondent and has furnished memo of calculation dated 19/12/2023 claiming an amount of Rs.13,94,221/- (Rs. Thirteen lakhs ninety four thousand two hundred twenty one only) towards interest on delay period. The respondent has not filed any memo of calculation for delay period interest nor disputed the memo of calculation submitted by the complainant.

15. Therefore it is incumbent upon the respondent to pay interest on delay period to the complainants which is determined as below:



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Sl.No.	Period	Amount	Date
1.	Total payment till possession	53,65,550	10/5/2021
2.	Total delayed interest as on 19/12/2023	13,94,221	

16. Having regards to all these aspects, the complainants are entitled for interest on delay period.

17. Sum and substance of the case is as under:

Date of agreement of sale	10/5/2019
Date of construction agreement	Nil
Sale consideration	Rs.57,65,550/- (Rs. Fifty seven lakhs sixty five thousand five hundred fifty only)
Amount paid	Rs.53,65,550/- (Rs. Fifty three lakhs sixty five thousand five hundred fifty only)
Promised date of possession as per agreement of sale	Within 24 months from the date of agreement of sale dated 10/5/2019 i.e. by 10/5/2021
Date of occupancy certificate	Nil
Whether the possession has been handed over with date	Not yet
Prayer	Interest on delay period and possession.

18. Despite of several notices served upon the respondents, they did not appear before the Authority during the aforesaid dates of hearings. Further, they have failed to file statement of objections and furnishing documents in support of their defence and hence not contested the matter. In the absence of any resistance by the respondents and considering the claim of the complainants which is corroborated with the documentary evidence, there is no option left to this Authority except to accept the claim of the

Asst

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

**19. Findings on point no.2.** In view of the above discussion, I conclude that, this complaint deserves to be allowed. Accordingly, 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/221010/0010073 is hereby allowed as under:

1. The respondent no.1 is hereby directed to pay a sum of Rs.13,94,221/- (Rs. Thirteen lakhs ninety four thousand two hundred twenty one only) towards interest on delay period to the complainants within 60 days from the date of this order calculated at the rate of SBI MCLR +2% from 10/5/2021 till 19/12/2023.
2. The interest due from 20/12/2023 shall be calculated likewise and paid to the complainants till the date of possession.
3. The respondent no.1 is directed to execute sale deed in favour of the complainants in respect of their flat no.T-21, Type-E, 3<sup>rd</sup> floor, D-Block in the project "THE WATERGROVE" and handover possession upon receiving balance sale consideration if any with all amenities as agreed.

*ASB*



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4. The complainants are at liberty to enforce the said order in accordance with law if the respondent fails to comply with the same.

No order as to costs.

  
(H.C. Kishore Chandra)  
Chairman  
K-RERA

NOT AN OFFICIAL