

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 5**

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

**Dated 05<sup>th</sup> January 2024**

**COMPLAINT NO: CMP/00254/2023**

**COMPLAINANTS...**

1. Shivani Brijesh Digaskar
  2. Brijesh Bapu Digaskar
- No. 20/B, Sai Sadan, Vishvakarma Housing Society, Jawahar Nagar Chauk, Near Metro Midical Store, Kolhapur-416012.  
STATE: MAHARASTRA

(In Person)

Vs

**RESPONDENT.....**

Reddy Structure Pvt. Ltd.,  
No. 133/1, 2<sup>nd</sup> Floor,  
The Residency Road,  
BENGALURU-560025.

(Mrs. Sujatha H.H, Advocate)

**JUDGEMENT**

1. This complaint is filed under section 31 of the RERA Act against the project "Mahaveer Trident" developed by M/s Reddy Structures Pvt. Ltd., seeking for the relief of interest on delay period and to complete all the pending works and handing over the possession.
2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/310/PR/190219/002385 valid till 31-12-2021 and extended till 30-09-2023.

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

3. Said project is situated at BBMP Ward No.192, Khatha/Survey No. 708/28/1, 28/6, Basapura Village, Begur Hobli, Bengaluru-South.

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

4. The complainants had purchased a flat bearing No.134-D, in the project of respondent by entering into an agreement of sale dated 22/07/2020 for a total sale consideration of Rs.53,86,393/- (Rupees Fifty Three Lakhs Eighty Six Thousand Three Hundred and Ninety Three only). At the time of entering into an agreement of sale agreement, the complainants had paid the sum of Rs.43,09,116/- (Rupees Forty Three Lakhs Nine Thousand and One Hundred and Sixteen only) to the respondent on the various dates. The respondent was supposed to handover the possession of the said flat to the complainants in June 2022. Though more than a 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 complainants. There are lot of pending works such as tile work, lift installation, wiring, sanitary fitting, painting, amenities and common area. The complainants are requesting this Authority to give instruction to the respondent to complete the project, execute the sale deed and hand over the possession to the complainants. 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 notices, the complainants have appeared before the Authority and filed memo of calculation, agreement of sale, payment receipts and email conversation of both the parties. The

NOT AN OFFICIAL COPY

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

respondent advocate appeared before the Authority through its counsel and filed statement of objections as under.

6. The respondent has denied the entire allegation made against them by the complainant as false. According to the respondent, as per agreement is sale the total sale consideration amount of Rs.53,86,393/- (Rupees Fifty Three Lakhs Eighty Six Thousand Three Hundred and Ninety Three only) and the same was executed on 22-07-2020. As per terms of said agreement of sale, the respondent/promoter was not able to complete the said project in time due to the below reasons which are beyond the control of the respondent.

**I. Covid 19 Pandemic:** Due to the impact of covid-19, bringing labourers, men and materials to the said project became major task to the respondent, the construction work got delayed for almost one year.

**II.** Accordingly concluded the cost of the respective units but due to increase in material, labour and other costs, the project cost also gone up, hence the difference amount from the actual cost to the agreed cost is increasing and the respondent has to bear the additional cost from his pocket. To manage the additional cost increased per unit, the promoter has availed the further loan from the financial institutions. The respondent is in need of another 8 crores subsequent to collecting the balance amount from the allottees. The allottees will pay the balance amount only during the completion and execution of sale deed, hence the additional project cost of Rs.8 Crores and the balance incurred



amount so far of Rs.14,07,17,736/- (Rupees Fourteen Crores Seven Lakhs Seventeen Thousand and Seven Hundred and Thirty Six only) is lying on the respondent without the responsibility of the allottees. Hence, the arrangement of funds and covid-19 pandemic affected the respondent to complete the project in time as agreed. As per the said clause, which are beyond the control of the respondent, the project is getting delayed and required few more months to complete the project in all aspects and the respondent has right to extend the project.

The complainants had made wrong allegation against the respondent just to gain benefit though they have agreed under the agreement of sale that respondent shall be entitled to such extension of time for delivery of possession of the said flat. For the said reasons the respondent is not liable to pay delay interest as claimed by the complainants. Hence, prayed to dismiss the complaint.

7. In support of his claim, the complainant has produced documents such as copies of agreement of sale, statement of bank account, email conversation with the respondent.

8. On the other hand, the respondent has furnished the documents such as statement of objection, booking form, rera certificate, extension certificate and agreement of sale.

9. This matter was heard on 13-09-2023 and 02-11-2023.

1. **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?

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

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

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

**REASONS**

10. **My answer to Point No. 1:-** The complainants had approached this forum seeking for the relief of interest on delay period; execute sale deed and requesting for handing over the possession. The grounds urged are that the complainants had booked a flat bearing No.134-D in the project of the respondent by entering into an agreement of sale on 22/07/2020. As per the said agreement, the respondent was supposed to handover possession of the said flat to the complainant on or before June 2022 but, the respondent has not handed over possession of the said flat to the complainant as agreed.

11. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 22/07/2020. 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 complainants in June 2022.

12. 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

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

*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'.*

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

14. 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 complainants have paid Rs. 43,09,116/- (Rupees Forty Three Lakhs Nine Thousand One Hundred and Sixteen only) to the respondent towards entire sale consideration.

15. The complainants have claimed Rs.7,71,799- (Rupees Seven Lakhs Seventy One Thousand Seven Hundred and Ninety Nine only) as delay period interest vide their memo of calculation as on 12/09/2023 calculated from 01/12/2021 to 12/09/2023. The respondent has not resisted the said memo of calculation filed by the complainants and he has not submitted his Memo of calculation inspite of providing sufficient opportunity. On verification of the memo of calculation filed by the complainants reveals that their claim is genuine. Hence, the



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

claim of complainants remained unchallenged and their claim is corroborated with cogent materials. There is no reason to discard the claim of complainants.

16. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 01/12/2021 to 12/09/2023.

17. The complainants have established their claim by producing cogent evidence i.e. agreement of sale dated 22/07/2020, payment receipts and memo of calculation etc.,.

18. A thorough verification of the documentary evidence placed by the complainants reveals that their claim is genuine. Having regard to all these aspects, this Authority concludes that the complainants are entitled for interest on delay period as submitted vide their memo of calculation as on 12/09/2023.

Payment Details

S. NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	43,09,116	01-12-2021
2	TOTAL DELAYED INTEREST as on 12/09/2023	7,71,799	

S.N O	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID 43,09,116						
1	01-12-2021	01-01-2022	31	7.3	9.3 as on 15-11-2021	34,036
2	01-01-2022	01-02-2022	31	7.3	9.3 as on 15-12-2021	34,036
3	01-02-2022	01-03-2022	28	7.3	9.3 as on 15-01-2022	30,742
4	01-03-2022	01-04-2022	31	7.3	9.3 as on 15-02-2022	34,036

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

5	01-04-2022	01-05-2022	30	7.3	9.3 as on 15-03-2022	32,938
6	01-05-2022	01-06-2022	31	7.4	9.4 as on 15-04-2022	34,402
7	01-06-2022	01-07-2022	30	7.5	9.5 as on 15-05-2022	33,646
8	01-07-2022	01-08-2022	31	7.7	9.7 as on 15-06-2022	35,500
9	01-08-2022	01-09-2022	31	7.8	9.8 as on 15-07-2022	35,866
10	01-09-2022	01-10-2022	30	8	10.0 as on 15-08-2022	35,417
11	01-10-2022	01-11-2022	31	8	10.0 as on 15-09-2022	36,597
12	01-11-2022	01-12-2022	30	8.25	10.25 as on 15-10-2022	36,302
13	01-12-2022	01-01-2023	31	8.35	10.35 as on 15-11-2022	37,878
14	01-01-2023	01-02-2023	31	8.6	10.6 as on 15-12-2022	38,793
15	01-02-2023	01-03-2023	28	8.6	10.6 as on 15-01-2023	35,039
16	01-03-2023	01-04-2023	31	8.7	10.7 as on 15-02-2023	39,159
17	01-04-2023	01-05-2023	30	8.7	10.7 as on 15-03-2023	37,896
18	01-05-2023	01-06-2023	31	8.7	10.7 as on 15-04-2023	39,159
19	01-06-2023	01-07-2023	30	8.7	10.7 as on 15-05-2023	37,896
20	01-07-2023	01-08-2023	31	8.7	10.7 as on 15-06-2023	39,159
21	01-08-2023	01-09-2023	31	8.75	10.75 as on 15-07-2023	39,342
22	01-09-2023	12-09-2023	11	8.75	10.75 as on 15-07-2023	13,960
					TOTAL DELAYED INTEREST as on 12/09/2023	7,71,799

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**





**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

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/00254/2023** is hereby allowed.

1. Respondent is directed to pay a sum of **Rs. 7,71,799/- (Rupees Six Lacs Forty One Thousand Four Hundred and Fifty Nine only)** towards delay period interest as on 01-12-2021 to 12-09-2023 to the complainants within **60 days** from the date of this order.
2. The interest due from 13/09/2023 up to the date of final payment will be calculated as per MCLR + 2% and paid to the complainants.
3. Further, the respondent is directed to complete all the pending works, execute the sale deed and hand over the possession of flat bearing no.134-D in the project 'Mahaveer Trident' to the complainants.
4. The complainants are 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**

**NOT AN OFFICIAL COPY**

NOT AN OFFICIAL COPY