

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

Dated 11th January 2024

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/00557/2023

COMPLAINANTS : 1. Mr.Srichaitanya.S
2. Ms.Sheetal S Adavani

Both are residing at
1892, 26th Main, South End
C Cross Road, Jayanagar
Bangalore : 560 069

(Party in Person)

RESPONDENT /
PROMOTER : M/s.Columbia Infra Holdings
Belaku Complex, 3rd Floor
1906/2661, AECS Layout
A Block, Singasandra, Hosur Main
Road, Bangalore : 560 076

(Ms.Sujatha.H.H, Advocate)

PROJECT NAME &
REGISTRATION NO. : COLUMBIA BELLEZA
PRM/KA/RERA/1251/310/PR/
171223/002221

J U D G E M E N T

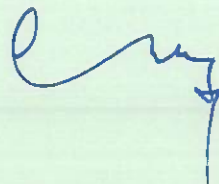
This complaint is filed under Sec-31 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the



project **COLUMBIA BELLEZA**, praying for a direction to pay delay period interest:

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. As per the details furnished by the Complainants in the Memo of Calculation, the complainants have entered into an agreement of sale on 18.10.2021 for purchase of an Apartment in the project known as **COLUMBIA BELLEZA**. The project completion date as per agreement was March 2022 with grace period of 3 months. The complainants have paid advance sale consideration amount of Rs.63,80,054/- (Rupees Sixty three lakhs eighty thousand fifty four only) to the respondent. Since there was a delay in handing over the apartment and the Respondent has not communicated the actual date of handing over or the status of the project, the complainants have filed the above complaint before the Authority praying for delay period interest.
2. As per the information furnished by the Complainants, it is seen that the completion date is agreed as 30.06.2022. The promoter-respondent was required to complete the project and hand over possession of the apartment by 30.06.2022. In cases where the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee as per the agreed delivery date, the Complainant is entitled to file a complaint before the Authority and the complaint filed by the Complainant is admissible for relief in accordance with Section 18 of the Act.
3. After registration of the complaint, notice was sent to both complainant and respondent to appear before the authority. In response to the Notice, the complainant and Respondent appeared



before the Authority on 03.10.2023. Complainant appeared before the Authority and was directed to file MOC along with supporting documents. Respondent was absent and was given final opportunity to file statement of objections and the hearing of the complaint was adjourned to 19.12.2023.


4. On 10.10.2023, complainants filed MOC for delay period interest together supporting documents. On the date of hearing on 19.12.2023, the complainants have produced the copy of the acknowledgement dated 4.10.2023 for having served MOC and other documents on the respondent. On the other hand Respondent advocate filed vakalath and prayed time for filing written submissions. Since the complainants have already served copy of the MOC together with supporting documents on the respondent on 04.10.2023, time was granted to the Respondent to file written submissions up to 26.12.2023 and thereafter the matter will be posted for orders. The Respondent in spite of availing opportunity for filing statement of objections / written submissions, failed to file any statement of objections.

5. On the above averments, the following points would arise for my considerations:-

- a) Whether the Complainants are entitled for the relief claimed?
- b) What order?

6. Findings on the above points are as under:

- a) In the Affirmative
- b) As per final order



FINDINGS:

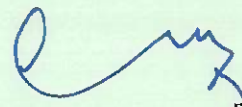
7. The complainants filed MOC for delay period interest together with supporting documents and the same was served on the respondent. The Complainants in support of its contention has produced various documents such as Agreement to sell & construction, statement of account, receipts, tripartite agreement and email correspondence and prayed for following reliefs:

a) Award Delay Period interest

8. On a perusal of the memo of calculation for delay period interest and other documents submitted by the complainants before the Authority, it is evident that the complainants have paid the substantial amount of sale consideration amount and the Respondent has acknowledged the receipt of the same. Admittedly there is a delay in handing over the apartment as per the agreement. Hence the complainants are entitled for delay period interest u/s 18 of the Act. The Complainants have served MOC for delay period interest along with supporting documents on the Respondent. The Respondent neither filed any MOC nor filed objections to the MOC filed by the Complainants. The Respondent failed to file its statement of objections, in spite of giving sufficient opportunities for the same.

9. Accordingly, the **point (a)** raised above is answered in the affirmative.

10. **Findings on Point No.b** : In view of the above observations, I conclude that, this complaint deserves to be allowed and accordingly, I proceed to pass the following:



ORDER

1. In exercise of the powers conferred under Section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing CMP/00557/2023 is hereby allowed.

2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 % from 30.06.2022 till the date of handing over possession along with occupancy certificate. The promoter shall pay the interest for the delay period as arrived at by the Complainant amounting to Rs.8,24,862/- (Rupees Eight Lakhs Twenty four Thousand Eight Hundred sixty two only) within 60 days from the date of this order. The Promoter-Respondent is also liable to pay delay period interest every month for the subsequent period of delay and up to the date of handing over possession as per the agreement. The complainant is 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.


(G.R. REDDY)
MEMBER
FIFTH ADDITIONAL BENCH
K-RERA