

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 25th January 2024

COMPLAINT NO: CMP/00932/2023

COMPLAINANTS...

1. Prosen Das
2. Dipanwita Das Roy
Flat 010, Aishwarya Splendour Block 1,
JP Nagar, 7th Phase,
Bangalore-560078.
STATE: KARNATAKA
(In Person)

RESPONDENT.....

Vs
Columbia Infra Holdings,
Belaku complex, 3rd Floor, No.
1906/2661, AECS Layout, A-Block,
Singasandra, Hosur Main Road,
Bangalore Sy.no. 5/3 & 6/2, 1st Cross,
Kothanur Village, Uttarahalli Hobli, JP
Nagar, 8th Phase,
BENGALURU-560076.
(Mrs. Sujatha H.H, Advocate)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "Columbia Belleza" developed by M/s Columbia Infra Holdings seeking for the relief of interest on delay period and possession.
2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/310/PR/171223/0022221 valid till 30-11-2021 and extended till 30-09-2022.

3. Said project is situated at Sowparnika Unnathi, Sy. No. 25/3a, Indlabele Village, Anekal Taluk, Attibele Hobli, Bangalore District, Anekal, Bengaluru Urban Bengaluru-South.

Brief facts of the complaint are as under:-

4. The complainants have agreed for purchase of a flat bearing No.1101, in the project of respondent "Columbia Belleza" for a total sale consideration of Rs.70,50,000/- (Rupees Seventy Lakhs Fifty Thousand only). The complainants and respondent had entered into an agreement of sale cum construction on 28/03/2022. At the time of entering into an agreement of sale, the complainants had paid the sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) on various dates to the respondent and the loan amount of Rs.44,40,000/- (Rupees Forty Four Lakhs Forty Thousand only) by HDFC Bank. The respondent was supposed to handover the possession of the said flat to the complainants in September 2022 along with 3 months grace period i.e., December 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. The complainants have filed a complaint for seeking possession as soon as possible and interest on delay period until the possession. 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 a memo of calculation, statement of bank account, payment receipts agreements of sale,

construction and tripartite. The respondent has appeared before the Authority and filed a vakalathnama but he did not file his statement of objections and not produced relevant documents.

6. In support of their claim, the complainants have produced documents such as copies of agreement of sale, payment receipts and memo of calculation as on 02-10-2023.
7. This matter was heard on 03-10-2023 and 19-12-2023.
8. **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?
9. **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 have approached this forum seeking for the relief of interest on delay period, requesting for handing over the possession. The grounds urged are that the complainants have booked a flat bearing No.1101-B in 'Cleramount Blok' in the project of the respondent by entering into an agreement of sale on 28/03/2022. As per the said agreement, the respondent was supposed to handover possession of the said flat to the complainants on September 2022, but the respondent has not handed over possession of the said flat to the complainants as agreed. The respondent

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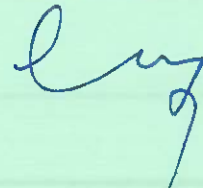
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had sent a copy of action plan to the complainants which states that the list of works which are pending in the said project and also the respondent stated in the same action plan that, 'it is very imperative that your support in terms of payments is required to achieve the said target' and also he requested to make the balance payment as soon as possible. In spite of receiving the substantial sale consideration, the respondent had not handed over the possession to the complainants.

11. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 28/03/2022. The agreement of sale is a key instrument which binds the parties in a contractual relation to be 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 September 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

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)



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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 on 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. 59,40,000/- (Rupees Fifty Nine Lakhs Forty Thousand only) to the respondent towards substantial sale consideration.
15. The complainants have claimed Rs. 6,78,187/- (Rupees Six Lakhs Seventy Eight Thousand One Hundred and Eighty Seven only) as interest on delay period vide their memo of calculation as on 02/10/2023 calculated from 01/09/2022 to 02/10/2023. Despite opportunities given, the respondent has not filed his memo of calculation. Having regard to all these aspects, this Authority concludes that the complainants are entitled for interest on delay period from 01/09/2022.
16. The complainants have established their claim by producing cogent evidence i.e. agreement of sale and construction dated 28/03/2022, tripartite agreement, payment receipts and memo of calculation etc.,.
17. 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

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are entitled for interest on delay period as submitted vide their memo of calculation as on 02/10/2023.

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	59,40,000	01-09-2022
2	TOTAL DELAYED INTEREST as on 02 /10/2023		6,78,187

S. NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID 5,940,000						
1	01-09-2022	01-10-2022	30	8.0	10.0 as on 15-08-2022	48,821
2	01-10-2022	01-11-2022	31	8.0	10.0 as on 15-09-2022	50,449
3	01-11-2022	01-12-2022	30	8.25	10.25 as on 15-10-2022	50,042
4	01-12-2022	01-01-2023	31	8.35	10.35 as on 15-11-2022	52,215
5	01-01-2023	01-02-2023	28	8.6	10.6 as on 15-12-2022	53,476
6	01-02-2023	01-03-2023	28	8.6	10.7 as on 15-01-2023	53,980
7	01-03-2023	01-04-2023	31	8.7	10.7 as on 15-02-2023	53,980
8	01-04-2023	01-05-2023	30	8.7	10.7 as on 15-03-2023	52,239
9	01-05-2023	01-06-2023	31	8.7	10.7 as on 15-04-2023	53,980
10	01-06-2023	01-07-2023	30	8.7	10.7 as on 15-05-2023	52,239
11	01-07-2023	01-08-2023	31	8.7	10.7 as on 15-06-2023	53,980
12	01-08-2023	01-09-2023	31	8.75	10.75 as on 15-07-2023	54,233
13	01-09-2023	01-10-2023	30	8.75	10.75 as on 15-08-2023	52,483
14	01-10-2023	02-10-2023	1	8.75	10.75 as on 15-09-2023	1,749
					TOTAL DELAYED INTEREST as on 02/10/2023	6,78,187

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

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

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ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/00932/2023** is hereby allowed.

1. Respondent is hereby directed to pay a sum of **Rs. 6,78,187/- (Rupees Six Lakhs Seventy Eight Thousand One Hundred Eighty and Seven only)** towards delay period interest as on 01-09-2022 to 02-10-2023 to the complainants within 60 days from the date of this order.
2. The interest due from 03-10-2023 up to the date of final payment will be calculated likewise and paid to the complainants.
3. Respondent is directed to complete all the pending works in the flat bearing no.1101, as per agreement and execute the sale deed of flat and hand over the possession of the same to the complainants at the earliest.
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

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