

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 6**

**DATED 6<sup>TH</sup> FEBRUARY 2024**

**PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU**

**COMPLAINT NO.: CMP/221226/0010526**

**COMPLAINANTS.....**

**SHUBHRAMANI MAZUMDAR &  
IPSHITA DUTTA  
F-108, BLOCK B  
NANDI SUNRISE APARTMENT  
DODDANEKUNDI  
MARATHAHALLI  
BANGALORE-560037.**

**(IN PERSON)**

**Vs**

**RESPONDENTS.....**

**1. RAJA HOUSING LIMITED  
2. RAJA DATTA  
3. RAJA SUCHINDRA**

**F-2, RAJA MAHALAKSHMI  
NO.12, BASAPPA ROAD  
SHANTHINAGAR  
BANGALORE-560027.**

**(BY MR. KASHYAP N NAIK, MR.VIVEK B,  
& OTHERS, ADVOCATES)**

**\* \* \* \* \***

**J U D G E M E N T**

1. This complaint is filed under section 31 of the RERA Act against the project "**RAJA RITZ AVENUE PHASE-II**" developed by **RAJA HOUSING LTD** on Sy.No.184 and 185/1, Khata No.1088, Hoodi Village, K.R.Puram Hobli, Bangalore East, Bangalore Urban District for the relief of interest on delay period.



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2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/446/PR/180524/001816 valid till 31/12/2021. The project was extended due to Covid-19 for a period of 9 months till 30/9/2022. The Authority has given further extension for a period of 12 months valid till 30/9/2023.

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

3. The complainants have purchased a flat bearing No.104, First Floor, Block-1 for a total sale consideration of Rs.81,04,380/- (Rupees Eighty One Lakh Four Thousand Three Hundred and Eighty only) in the project of the respondents and entered into an agreement of sale on 17/08/2019 which was also confirmed vide their allotment letter dated 17/9/2019. They have paid an amount of Rs.72,94,555/- (Rupees Seventy Two Lakh Ninety Four Thousand Five Hundred and Fifty Five only) to the respondents on various dates. The respondents were supposed to handover the possession of the flat to the complainants by December 2021, failing which the respondents were supposed to pay compensation for delay. But till date the respondents have neither paid compensation for delay. The pace of the construction is slow and the amenities and club house are not worked upon parallelly. The complainants submit that the sale deed was executed by the respondents on 02/11/2023 in respect of the above flat. Thus, the complainants have approached this Hon'ble Authority and pray for direction to the respondents to pay the interest on delay period. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondents have appeared before the Authority through its counsel and has filed statement of objections as under:-

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5. The respondents submit that every project undertaken by them has been completed within the stipulated time and that till date they have completed 36 projects at Bangalore and Mysore. There are no complaints against any other project except Raja Ritz Avenue, which was severely affected by covid pandemic.
6. The respondent has entered into JDA with one Mr.K.Purushotham Reddy, the land owner and undertook to develop the property in two phases wherein Phase-I consisting 220 Units and Phase-II consisting of 210 Units. The respondents also submit that they had also obtained all necessary sanctions and approvals from the regulatory authorities. The respondents submit that the complainants have booked flat bearing No.104, First Floor, Block-1 and entered into agreement for sale dated 17/8/2019. The respondents were supposed to handover possession of the flat to the complainants on 31/12/2021 but the sale deed has been executed in favour of the complainants on 02/11/2023.
7. The respondents submit that the delay in completion of the project was due to force majeure conditions such as, scarcity of raw materials, non-availability of skilled labourers, transport disruption or such reasons beyond the control of the respondent, increase in the cost of materials and the respondent cannot be held liable to compensate the complainant under section 18(1) of RERA Act.
8. In addition the second wave of Covid-19 pandemic and the lockdowns imposed by the State Government have also contributed significantly to the obstacles faced by the respondents. The respondents submit that due to the lockdowns and quarantine imposed by the Government of Karnataka the construction work in the project was stalled for a substantial period and that they were unable to even source the basic construction materials such as sand, cement, bricks, steel etc. The



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respondents submit that due to mass migration of labour during the pandemic they were unable to undertake speedy construction. The pandemic also distracted the demand for real estate sector which resulted in limited cash flow, thereby further delaying the completion of the project. The respondents contend that after the lockdowns were relaxed, they have been proactively working on completing the construction of the project and thus they are not liable to pay any compensation for the delay.

9. The respondents further submit that 131 units in the project were booked by March 2020 and the allottees defaulted in making scheduled payments including the complainant which has directly attributed to the delay in completion of the project.
10. The respondents contend that the complainants in November 2022 sought for a modification in the existing plan. They requested to remove the wall put up between the common wash basin area and dining area along with some other minor changes. The modified plan was shared with them in December 2022. They were also intimated that it will take three months for executing the changes. The work was executed after their consent. This last minute request caused a further delay of 4 months. The complainants have concealed this fact and have sought for interest on delay period.
11. The respondents further submit that the complainants themselves have breached the terms of the agreement of sale by not paying the scheduled instalments on time and are claiming compensation for delay by the respondents. The respondents contend that in the event of extension granted by the Hon'ble Authority till 30/9/2023, despite the hurdles as mentioned in the above paras, the respondents have



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continued the construction and the project is in the last stages of the construction.

12. The respondents also contend that the calculation worked out by the complainants are not correct as they themselves have delayed in paying the stipulated instalments and have included the statutory period of extension as well. Thus, the respondents pray the Hon'ble Authority to dismiss the complaint.

13. In support of their defence, the respondent has submitted copy of the Sale Deed.

14. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale, allotment letter, payment receipts and memo of calculation as on 5/2/2024.

15. This case was heard on 15/3/2023, 6/6/2023, 13/7/2023, 16/8/2023, 14/9/2023, 11/10/2023, 7/12/2023 and 31/1/2024. Heard arguments of both sides.

16. **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?

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

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

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**REASONS**

18. **My answer to point No.1:-** It is undisputed that the respondents have failed to handover possession of the flat to the complainants herein within agreed time even after receiving substantial sale consideration amount. As per the terms of agreement of sale between the parties, the possession of the flat had to be handed over before the end of December 2021. However, the respondents have executed the Sale Deed in favour of the complainants on 02/11/2023.
19. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainants have already paid substantial sale consideration amount to the respondents. Having accepted the said amount and failure to keep up promise to handover possession of the flat as agreed, certainly entitles the complainants herein for delay period interest.
20. During the process of the hearing, the Hon'ble Authority has perused the statement of objects filed by the respondents and written submission filed by the complainants. The Hon'ble Authority has not accepted the contentions of the respondents made in their objections. It was also brought to the notice of the Hon'ble Authority that the complainants have got possession of the flat and directed the respondents to produce possession letter before the Authority. Accordingly, the respondents have produced copy of the Sale Deed executed on 2/11/2023.
21. At this juncture, my attention is drawn towards the decision of the Hon'ble Supreme Court in Appeal No.6750-57/2021 M/s Newtech Promoters v/s The State of Uttar Pradesh which is held as under:-

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“**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 under sections 18(2) & 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 month's delay in handing over possession at such rates as may be prescribed.”

22. The complainants have claimed Rs.5,69,221/- (Rupees Five Lakh Sixty Nine Thousand Two Hundred and Twenty One only) calculated from 30/9/2022 to 19/7/2023 as delay period interest vide their memo of calculation as on 19/7/2023. Despite several opportunities was given, the respondents have not filed their memo of calculation. The Hon'ble Authority has not accepted the memo of calculation submitted by the complainants, as the calculation for delay period interest should have been done from 31/12/2021 to 02/11/2023, the date on which the sale deed was executed.

23. Having regard to all these aspects, the Hon'ble Authority concludes that the complainants are entitled for delay period interest calculated from 31/12/2021 till 02/11/2023.



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24. Therefore, it is incumbent upon the respondent to pay interest for the delay period which is determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	72,94,555	31-12-2021
2	TOTAL DELAYED INTEREST as on 02/11/2023	13,62,900	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 72,94,555						
1	31-12-2021	31-01-2022	31	7.3	9.3 as on 15-12-2021	57,616
2	31-01-2022	28-02-2022	28	7.3	9.3 as on 15-01-2022	52,041
3	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	52,041
4	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	57,616
5	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	56,357
6	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	58,856
7	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	58,156
8	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	60,714



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9	28-08-2022	28-09-2022	31	8	10.0 as on 15-08-2022	61,953
10	28-09-2022	28-10-2022	30	8	10.0 as on 15-09-2022	59,955
11	28-10-2022	28-11-2022	31	8.25	10.25 as on 15-10-2022	63,502
12	28-11-2022	28-12-2022	30	8.35	10.35 as on 15-11-2022	62,053
13	28-12-2022	28-01-2023	31	8.85	10.85 as on 15-12-2022	67,219
14	28-01-2023	28-02-2023	31	8.6	10.6 as on 15-01-2023	65,670
15	28-02-2023	28-03-2023	28	8.7	10.7 as on 15-02-2023	59,875
16	28-03-2023	28-04-2023	31	8.7	10.7 as on 15-03-2023	66,290
17	28-04-2023	28-05-2023	30	8.7	10.7 as on 15-04-2023	64,152
18	28-05-2023	28-06-2023	31	8.7	10.7 as on 15-05-2023	66,290
19	28-06-2023	28-07-2023	30	8.7	10.7 as on 15-06-2023	64,152
20	28-07-2023	28-08-2023	31	8.75	10.75 as on 15-07-2023	66,600
21	28-08-2023	28-09-2023	31	8.75	10.75 as on 15-08-2023	66,600
22	28-09-2023	28-10-2023	30	8.75	10.75 as on 15-09-2023	64,451
23	28-10-2023	02-11-2023	5	8.75	10.75 as on 15-10-2023	10,741

*(Handwritten signature)*

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					TOTAL DELAYED INTEREST as on 02/11/2023	13,62,900
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25. Accordingly, the point raised above is answered in the Affirmative.

26. **My answer to Point No.2:-** In view of the above observation, I proceed to pass the following order –

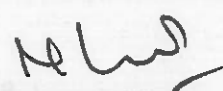
**ORDER**

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/221226/0010526** is hereby allowed.

Respondent is directed to pay a sum of **Rs.13,62,900/- (Rupees Thirteen Lakh Sixty Two Thousand Nine Hundred only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 31/12/2021 till 02/11/2023, the date on which the sale deed was executed by the respondents in favour of the complainants.

The complainants are at liberty to initiate action for recovery in accordance with law if the respondents fail to pay the amount as per the order of this Authority.

No order as to the costs.

  
(Neelmani N Raju)  
Member, K-RERA