

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 06th February 2024

COMPLAINT NO: CMP/00692/2023

COMPLAINANTS...

1. Rajagopal Thirumalai
2. Geetha Rajagopal
Flat No. 106, Nityashree Sankalp,
No. 21, Subramanyapura Main Road,
Chikkalasandra, Bangalore-560061.
STATE: KARNATAKA
(In Person)

Vs

RESPONDENTS.....

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

2. Ramesh L
No. 226, 1st A Main Road,
2nd Stage, West of Chord Road,
Mahalakshmpuram, Bangalore-560086.
(Ex-parte)

3. Surendra Babu P
No. 303, 3rd Floor, MBM Apartment,
1st Main, Doctors Layout,
Chikkalasandra, Bangalore-560061.
(Ex-parte)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "**Columbia Belleza**" developed by M/s Columbia Infra

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Holdings, seeking for relief of completion of the project, execution of sale deed, interest on delay period and possession.

2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/310/PR/171223/002221 valid till 31-12-2021 and extended till 30-09-2023.
3. Said project is situated at Belaku Complex, 3rd Floor, 1906/2661, AECS Layout, A Bloc, Singasandra Hosur Main Road, Bengaluru South, Bengaluru Urban..

Brief facts of the complaint are as under:-

4. The complainants had purchased a flat bearing No.A-304 in the project "Columbia Belleza" of respondent by entering into an agreement of sale and construction dated 12-11-2018 for a substantial sale consideration of Rs.77,50,000/- (Rupees Seventy Seven Lakhs Fifty Thousand only). At the time of entering into an agreement of sale agreement, the complainants had paid the sum of Rs.11,00,100/- (Rupees Eleven Lakhs One Hundred only), the loan amount of Rs.42,89,400/- (Rupees Forty Two Lakhs Eighty Nine Thousand and Four Hundred only) by HDFC on various dates and partly the sum of Rs.13,18,250/- (Rupees Thirteen Lakhs Eighteen Thousand and Two Hundred and Fifty only) from their own on the various dates to the respondent. Therefore the complainants had paid substantial sale consideration of Rs.67,07,650/- (Rupees Sixty Seven Lakhs Seven Thousand and Six Hundred and Fifty only) to the respondent. The respondent was supposed to handover the possession of the said flat to the complainants in June 2021 along with amenities like plating, flooring, doors/locks,

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windows, kitchen, painting, plumbing and sanitary, electrical and AC etc.,. Though more than two years have been lapsed, the respondent has failed to complete the project as agreed and to handover the possession of the said flat to the complainants along with the occupancy certificate. The complainants are requesting this Authority to direct the respondent to complete the project, execute the sale deed and hand over the possession to the complainants. The complainants are also seeking relief of interest on delay period, 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, copy of allotment letter, agreements of sale, construction and tripartite, and payment receipts. The respondent no.1 advocate appeared before the Authority and filed a vakalathnama but he did not file his statement of objections and relevant documents. The respondent 2 and respondent 3 did not appear before this Authority and remained absent. Hence, the respondent nos. 2 & 3 were placed as ex-parte.

6. In support of their claim, the complainants have produced documents such as copies of allotment letter, agreement of sale, payment receipts and memo of calculation as on 18-08-2023.

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?



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2. What order?

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

1. In the Affirmative.

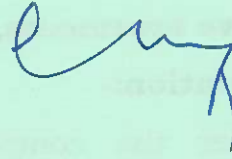
2. As per final order for the following.

REASONS

10. **My answer to Point No. 1:-** The complainants have approached this forum seeking for the relief of interest on delay period, execute sale deed and for handing over the possession. The grounds urged are that the complainants had booked a flat bearing No.A-304 in the project of the respondent by entering into an agreement of sale on 12-11-2018. As per the said agreement, the respondent was supposed to handover possession of the said flat to the complainants on or before June 2021 but, the respondent has not handed over possession of the said flat to the complainants as agreed.

11. Looking to the averments of agreement, parties herein have entered into an agreement of sale and construction on 12-11-2018. 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 complainant in June 2021.

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



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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 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 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.67,07,650/- (Rupees Sixty Seven Laksh Seven Thousand and Six Hundred and Fifty only) to the respondent towards part sale consideration.
15. The complainants have claimed Rs.15,37,240- (Rupees Fifteen Lakhs Thirty Seven Thousand Two Hundred and Forty only) as delay period interest vide their memo of calculation as on 18-08-2023 calculated from 11-03-2021 to 18-08-2023. The respondents have not resisted the said memo of calculation filed by the complainants and then have not submitted their memo of calculation inspite of providing sufficient opportunity. On verification of the memo of calculation filed by the complainants reveal that their claim is genuine. In response to the notice, the respondents no. 2 & 3 have not

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taken any interest to participate in the proceedings and to resist the claim of complainants. Hence, the 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 11-03-2021 to 18-08-2023.

17. The complainants have established their claim by producing cogent evidence i.e. agreement of sale dated 12-11-2018, 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 vides their memo of calculation as on 18-08-2023.

| S.NO | TYPE | AMOUNT | DATE |
|------|--|-----------|------------|
| 1 | TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT | 62,04,650 | 11-03-2021 |
| 2 | SUBSEQUENT PAYMENT 1 | 2,00,000 | 16-04-2022 |
| 3 | SUBSEQUENT PAYMENT 2 | 3,00,000 | 06-10-2022 |
| 4 | SUBSEQUENT PAYMENT 3 | 3,000 | 09-11-2022 |
| 5 | TOTAL PRINCIPLE AMOUNT | 67,07,650 | |
| 6 | TOTAL DELAYED INTEREST as on 18/08/2023 | 15,37,240 | |

| Interest Calculation | | | | | | |
|--|------------|------------|-------------|-----------|----------------------|----------|
| S.NO | FROM DATE | TO DATE | NO. OF DAYS | MCLR RATE | INTEREST RATE | INTEREST |
| INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 62,04,650 | | | | | | |
| 1 | 11-03-2021 | 11-04-2021 | 31 | 7.3 | 9.3 as on 10-03-2021 | 49,008 |
| 2 | 11-04-2021 | 11-05-2021 | 30 | 7.3 | 9.3 as on 10-04-2021 | 47,427 |

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| | | | | | | |
|--|------------|------------|----|------|------------------------|--------|
| 3 | 11-05-2021 | 11-06-2021 | 31 | 7.3 | 9.3 as on 10-04-2021 | 49,008 |
| 4 | 11-06-2021 | 11-07-2021 | 30 | 7.3 | 9.3 as on 15-05-2021 | 47,427 |
| 5 | 11-07-2021 | 11-08-2021 | 31 | 7.3 | 9.3 as on 15-06-2021 | 49,008 |
| 6 | 11-08-2021 | 11-09-2021 | 31 | 7.3 | 9.3 as on 15-07-2021 | 49,008 |
| 7 | 11-09-2021 | 11-10-2021 | 30 | 7.3 | 9.3 as on 15-08-2021 | 47,427 |
| 8 | 11-10-2021 | 11-11-2021 | 31 | 7.3 | 9.3 as on 15-09-2021 | 49,008 |
| 9 | 11-11-2021 | 11-12-2021 | 30 | 7.3 | 9.3 as on 15-10-2021 | 47,427 |
| 10 | 11-12-2021 | 11-01-2022 | 31 | 7.3 | 9.3 as on 15-11-2021 | 49,008 |
| 11 | 11-01-2022 | 11-02-2022 | 31 | 7.3 | 9.3 as on 15-12-2021 | 49,008 |
| 12 | 11-02-2022 | 11-03-2022 | 28 | 7.3 | 9.3 as on 15-01-2022 | 44,265 |
| 13 | 11-03-2022 | 11-04-2022 | 31 | 7.3 | 9.3 as on 15-02-2022 | 49,008 |
| 14 | 11-04-2022 | 11-05-2022 | 30 | 7.3 | 9.3 as on 15-03-2022 | 47,427 |
| 15 | 11-05-2022 | 11-06-2022 | 31 | 7.4 | 9.4 as on 15-04-2022 | 49,535 |
| 16 | 11-06-2022 | 11-07-2022 | 30 | 7.5 | 9.5 as on 15-05-2022 | 48,447 |
| 17 | 11-07-2022 | 11-08-2022 | 31 | 7.7 | 9.7 as on 15-06-2022 | 51,116 |
| 18 | 11-08-2022 | 11-09-2022 | 31 | 7.8 | 9.8 as on 15-07-2022 | 51,643 |
| 19 | 11-09-2022 | 11-10-2022 | 30 | 8 | 10.0 as on 15-08-2022 | 50,997 |
| 20 | 11-10-2022 | 11-11-2022 | 31 | 8 | 10.0 as on 15-09-2022 | 52,697 |
| 21 | 11-11-2022 | 11-12-2022 | 30 | 8.25 | 10.25 as on 15-10-2022 | 52,272 |
| 22 | 11-12-2022 | 11-01-2023 | 31 | 8.35 | 10.35 as on 15-11-2022 | 54,541 |
| 23 | 11-01-2023 | 11-02-2023 | 31 | 8.6 | 10.6 as on 15-12-2022 | 55,858 |
| 24 | 11-02-2023 | 11-03-2023 | 28 | 8.6 | 10.6 as on 15-01-2023 | 50,453 |
| 25 | 11-03-2023 | 11-04-2023 | 31 | 8.7 | 10.7 as on 15-02-2023 | 56,385 |
| 26 | 11-04-2023 | 11-05-2023 | 30 | 8.7 | 10.7 as on 15-03-2023 | 54,566 |
| 27 | 11-05-2023 | 11-06-2023 | 31 | 8.7 | 10.7 as on 15-04-2023 | 56,385 |
| 28 | 11-06-2023 | 11-07-2023 | 30 | 8.7 | 10.7 as on 15-05-2023 | 54,566 |
| 29 | 11-07-2023 | 11-08-2023 | 31 | 8.7 | 10.7 as on 15-06-2023 | 56,385 |
| 30 | 11-08-2023 | 18-08-2023 | 7 | 8.75 | 10.75 as on 15-07-2023 | 12,791 |
| INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 2,00,000 | | | | | | |
| 1 | 16-04-2022 | 16-05-2022 | 30 | 7.4 | 9.4 as on 15-04-2022 | 1,545 |
| 2 | 16-05-2022 | 16-06-2022 | 31 | 7.5 | 9.5 as on 15-05-2022 | 1,613 |
| 3 | 16-06-2022 | 16-07-2022 | 30 | 7.7 | 9.7 as on 15-06-2022 | 1,594 |
| 4 | 16-07-2022 | 16-08-2022 | 31 | 7.8 | 9.8 as on 15-07-2022 | 1,664 |
| 5 | 16-08-2022 | 16-09-2022 | 31 | 8 | 10.0 as on 15-08-2022 | 1,698 |
| 6 | 16-09-2022 | 16-10-2022 | 30 | 8 | 10.0 as on 15-09-2022 | 1,643 |
| 7 | 16-10-2022 | 16-11-2022 | 31 | 8.25 | 10.25 as on 15-10-2022 | 1,741 |
| 8 | 16-11-2022 | 16-12-2022 | 30 | 8.35 | 10.35 as on 15-11-2022 | 1,701 |
| 9 | 16-12-2022 | 16-01-2023 | 31 | 8.6 | 10.6 as on 15-12-2022 | 1,800 |
| 10 | 16-01-2023 | 16-02-2023 | 31 | 8.6 | 10.6 as on 15-01-2023 | 1,800 |
| 11 | 16-02-2023 | 16-03-2023 | 28 | 8.7 | 10.7 as on 15-02-2023 | 1,641 |
| 12 | 16-03-2023 | 16-04-2023 | 31 | 8.7 | 10.7 as on 15-03-2023 | 1,817 |
| 13 | 16-04-2023 | 16-05-2023 | 30 | 8.7 | 10.7 as on 15-04-2023 | 1,758 |

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| | | | | | | |
|--|------------|------------|----|------|------------------------|-----------|
| 14 | 16-05-2023 | 16-06-2023 | 31 | 8.7 | 10.7 as on 15-05-2023 | 1,817 |
| 15 | 16-06-2023 | 16-07-2023 | 30 | 8.7 | 10.7 as on 15-06-2023 | 1,758 |
| 16 | 16-07-2023 | 16-08-2023 | 31 | 8.75 | 10.75 as on 15-07-2023 | 1,826 |
| 17 | 16-08-2023 | 18-08-2023 | 2 | 8.75 | 10.75 as on 15-07-2023 | 117 |
| INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 3,00,000 | | | | | | |
| 1 | 06-10-2022 | 06-11-2022 | 31 | 8 | 10.0 as on 15-09-2022 | 2,547 |
| 2 | 06-11-2022 | 06-12-2022 | 30 | 8.25 | 10.25 as on 15-10-2022 | 2,527 |
| 3 | 06-12-2022 | 06-01-2023 | 31 | 8.35 | 10.35 as on 15-11-2022 | 2,637 |
| 4 | 06-01-2023 | 06-02-2023 | 31 | 8.6 | 10.6 as on 15-12-2022 | 2,700 |
| 5 | 06-02-2023 | 06-03-2023 | 28 | 8.6 | 10.6 as on 15-01-2023 | 2,439 |
| 6 | 06-03-2023 | 06-04-2023 | 31 | 8.7 | 10.7 as on 15-02-2023 | 2,726 |
| 7 | 06-04-2023 | 06-05-2023 | 30 | 8.7 | 10.7 as on 15-03-2023 | 2,638 |
| 8 | 06-05-2023 | 06-06-2023 | 31 | 8.7 | 10.7 as on 15-04-2023 | 2,726 |
| 9 | 06-06-2023 | 06-07-2023 | 30 | 8.7 | 10.7 as on 15-05-2023 | 2,638 |
| 10 | 06-07-2023 | 06-08-2023 | 31 | 8.7 | 10.7 as on 15-06-2023 | 2,726 |
| 11 | 06-08-2023 | 18-08-2023 | 12 | 8.75 | 10.75 as on 15-07-2023 | 1,060 |
| INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 3,000 | | | | | | |
| 1 | 09-11-2022 | 09-12-2022 | 30 | 8.25 | 10.25 as on 15-10-2022 | 25 |
| 2 | 09-12-2022 | 09-01-2023 | 31 | 8.35 | 10.35 as on 15-11-2022 | 26 |
| 3 | 09-01-2023 | 09-02-2023 | 31 | 8.6 | 10.6 as on 15-12-2022 | 27 |
| 4 | 09-02-2023 | 09-03-2023 | 28 | 8.6 | 10.6 as on 15-01-2023 | 24 |
| 5 | 09-03-2023 | 09-04-2023 | 31 | 8.7 | 10.7 as on 15-02-2023 | 27 |
| 6 | 09-04-2023 | 09-05-2023 | 30 | 8.7 | 10.7 as on 15-03-2023 | 26 |
| 7 | 09-05-2023 | 09-06-2023 | 31 | 8.7 | 10.7 as on 15-04-2023 | 27 |
| 8 | 09-06-2023 | 09-07-2023 | 30 | 8.7 | 10.7 as on 15-05-2023 | 26 |
| 9 | 09-07-2023 | 09-08-2023 | 31 | 8.7 | 10.7 as on 15-06-2023 | 27 |
| 10 | 09-08-2023 | 18-08-2023 | 9 | 8.75 | 10.75 as on 15-07-2023 | 7 |
| TOTAL DELAYED INTEREST as on 18/08/2023 | | | | | | 15,37,240 |

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

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the

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complaint bearing No. **CMP/00692/0002023** is hereby allowed.

1. Respondent is directed to pay a sum of **Rs. 15,37,240/- (Rupees Fifteen Lakhs Thirty Seven Thousand Two Hundred and Forty only)** towards delay period interest as on 11-03-2021 to 15-08-2023 the complainants within 60 days from the date of this order.
2. The interest due from 16-08-2023 up to the date of final payment will be calculated as per MCLR + 2% and paid to the complainant.
3. Further, the respondent is directed to complete all the pending works in the project bearing no.A-304, and execute the sale deed of flat bearing no.A-304 in the project "Columbia Belleze" and hand over the possession of the same 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

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