

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 13TH FEBRUARY 2024

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: 00338/2023

COMPLAINANTS.....

**VISHAL KISHALAYA VERMA &
VIJISHA
NO.56, C-TOWER
DLF MAIDEN HEIGHTS
JIGANI-562106
BANGALORE RURAL DISTRICT**

(IN PERSON)

Vs

RESPONDENT.....

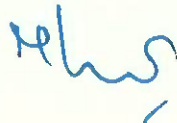
**MAARS INFRA DEVELOPERS
PRIVATE LIMITED
NO.3, 12TH CROSS, 6TH MAIN
MALLESHWARAM
BANGALORE-560003.**

**(BY MR. JOSEPH ANTHONY, ADVOCATE
& OTHERS, JSM LAW PARTNERS)**

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J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "**SHRIRAM BLUE**" developed by **MAARS INFRA DEVELOPERS PRIVATE LIMITED** on Sy.No.11(P), Seegehalli Village, K.R. Puram Hobli, Bangalore East, Bangalore Urban District for the relief of interest on delay period.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/446/PR/180728/001966 valid till



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16/7/2021. The project was extended due to Covid-19 for a period of 9 months till 16/4/2022. The Authority has extended its registration for a further period of 12 months i.e. till 16/4/2023. The Authority has further permitted to continue the development work and obtain occupancy certificate till 30/11/2023.

Brief facts of the complaint are as under:-

3. The complainants have booked a flat bearing No.C.10.02, 10th Floor, Tower C in Building-1 of the project of the respondent and entered into an agreement for sale on 23/10/2020 for a total sale consideration of Rs.1,08,78,000/- (Rupees One Crore Eight Lakh Seventy Eight Thousand only) and have paid Rs.1,28,25,774/- (Rupees One Crore Twenty Eight Lakh Twenty Five Thousand Seven Hundred and Seventy Four only) to the respondent on various dates. The respondent was supposed to hand over the possession of the flat to the complainants by 16/1/2022 with six months grace period i.e. latest by 16/7/2022. However, the respondent has executed the sale deed on 05/07/2023 in favour of the complainants.
4. The complainants enquired with the respondent about the delay and demanded the new date of handing over of the flat. The respondent replied that the RERA extension date is April 2022. The construction progress are in full swing towards the timeline. But they did not mention reasons for the delay. On query from the complainants, the respondent informed that the unit readiness would be shared in April 2022.
5. The respondent vide email dated 20/3/2023 mentioned about the delay reason and offered compensation of one year additional free

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maintenance. The complainants rejected the offer and demanded interest for the delay as per RERA guidelines. Thus, the complainants have approached this Hon'ble Authority and pray for direction to the respondent to pay interest for delay period and expedite possession of the flat. Hence, this complaint.

6. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its representative/counsel and has filed statement of objections as under:
7. The Respondent submits that they had agreed to deliver the apartment on 21st April 2021 but was delayed due to unforeseeable circumstances which led to delay in the development of the project. The respondent submits that the issue relating to presence of rock embedded 6 – 8 meters in the ground took 5 months for excavation. The project was further delayed due to Covid-19 pandemic and lockdown imposed through-out the country and force majeure events such as, scarcity of raw materials, non-availability of skilled labours, transport disruption or such other reasons beyond the control of the respondent.
8. The respondent submits that there was threat from the local political elements in the vicinity of the construction place due to which the project was further delayed. The respondent contends that the customers were aware of the fact and difficulties faced in entering the premises of the project. The respondent submits that with all these hurdles faced by them, they have completed the project and the complainants have registered the sale deed dated 05/07/2023. The respondent has also obtained Final Occupancy Certificate from the

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competent authority dated 2/6/2023 (signed by the JD, Town Planning-North, BBMP dated 2/6/2023).

9. The respondent submits that with all the above hindrances, they have completed the project and issued occupancy certificate to the customers and prays the Hon'ble Authority not to grant the relief sought for by the complainants and dismiss the complaint.
10. The complainants in their rejoinder to the statement of objections filed by the respondent have submitted that the complaint is duly registered via lawful process and that the respondent calling it unlawful is unprofessional and unethical. The complainants have contended that they have submitted documents such as Memo of calculation for delay period interest as per RERA, agreement for sale, receipts with respect to payments made by them to the respondent and that all the above documents were generated RERA website and Shriram Blue itself and as such, the complaint filed by them should not be dismissed.
11. The delivery date mentioned by the respondent as 21/4/2021 is not correct, whereas the actual date of completion was 16/1/2022, which shows the lack of seriousness of the respondent towards its customers and moreover the date mentioned by them will yield more delay interest. The respondent has claimed that the presence of rock in the lower strata is a reason for the delay, the complainants cannot bear the brunt of their inefficiency to detect the same earlier. The issue between the respondent and politicians are nowhere related to customers. Hence, the complainants pray the Hon'ble Authority to allow the complaint and seek interest for delay period from the respondent.

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12. In support of their defence, the respondent has submitted copies of the Agreement for Sale, final occupancy certificate issued by BBMP, Sale Deed dated 5/7/2023, RERA registration/extension certificates and memo of calculation as on 31/1/2024 (calculated from 31/10/2022 to 19/7/2023).
13. In support of their claim, the complainants have produced documents such as copies of Agreement for Sale, payment receipts, email correspondence with the respondent and memo of calculation as on 30/1/2024 (calculated from 16/1/2022 to 2/8/2023).
14. This case was heard on 28/6/2023, 8/8/2023, 27/9/2023, 19/12/2023 and 01/02/2024. Heard arguments of both sides.
15. **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?
16. **My answer to the above points are as under:-**
1. In the Affirmative.
 2. As per final order for the following

REASONS

17. **My answer to Point No.1:-** From the materials placed on record, it is apparent that in spite of entering into an agreement for sale to handover the flat within 16/1/2022 with a grace period of six months i.e. by 16/7/2022, the respondent has failed to abide by the terms of the agreement and not handed over the possession of the flat to the complainants as agreed, but has executed registration of sale deed in

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favour of the complainants on 5/7/2023, certainly entitles the complainants herein for interest on delay period.

18. The Authority has perused the statement of objections filed by the respondent and written submission/rejoinder filed by the complainants. 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, and hence, it is necessary that it shall be free from any ambiguity and vagueness. Here in this case, the respondent has not complied with the terms of the said agreement of sale. Therefore, the Hon'ble Authority has not accepted the contentions of the respondent made in their statement of objections.

19. As per decision of Hon'ble Supreme Court in Appeal No.6750-57/2021, Newtech Promoters Vs the State of UP and other, 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) 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

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every month's delay in handing over possession at such rates as may be prescribed."

20. The complainants vide their memo of calculation as on 30/1/2024 have claimed an amount of Rs.18,89,165/- as interest on delay period calculated from 16/1/2022 to 2/8/2023.
21. The Hon'ble Authority has noticed that in the agreement for sale actual date of possession is 16/1/2022 with a grace period of six months i.e. 16/7/2022. As such, the calculation for delay period interest should have been done from 16/7/2022 to 5/7/2023, the date on which the sale deed was executed.
22. The respondent in their memo of calculation as on 31/1/2024 have claimed that the complainants are entitled for Rs.9,43,845/- as interest on delay period calculated from 31/10/2022 to 19/7/2023. The Hon'ble Authority did not accept the memo of calculation submitted by the respondent. A thorough verification of the proof submitted by the complainants to substantiate the principal amount paid them to the respondent has been found genuine.
23. Having regard to all these aspects, the Hon'ble Authority concludes that the complainants are entitled for delay period interest from 16/7/2022 to 5/7/2023, the date on which the sale deed was executed.
24. Therefore, it is incumbent upon the respondent to pay interest on delay period determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	1,23,92,352	16-07-2022
2	SUBSEQUENT PAYMENT 1	1,16,235	03-12-2022

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3	SUBSEQUENT PAYMENT 2	3,17,187	20-06-2023
4	TOTAL PRINCIPLE AMOUNT	1,28,25,774	
5	TOTAL DELAYED INTEREST as on 05/07/2023	12,64,320	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 1,23,92,352						
1	16-07-2022	16-08-2022	31	7.8	9.8 as on 15-07-2022	1,03,145
2	16-08-2022	16-09-2022	31	8	10.0 as on 15-08-2022	1,05,250
3	16-09-2022	16-10-2022	30	8	10.0 as on 15-09-2022	1,01,854
4	16-10-2022	16-11-2022	31	8.25	10.25 as on 15-10-2022	1,07,881
5	16-11-2022	16-12-2022	30	8.35	10.35 as on 15-11-2022	1,05,419
6	16-12-2022	16-01-2023	31	8.85	10.85 as on 15-12-2022	1,14,196
7	16-01-2023	16-02-2023	31	8.6	10.6 as on 15-01-2023	1,11,565
8	16-02-2023	16-03-2023	28	8.7	10.7 as on 15-02-2023	1,01,719
9	16-03-2023	16-04-2023	31	8.7	10.7 as on 15-03-2023	1,12,617
10	16-04-2023	16-05-2023	30	8.7	10.7 as on 15-04-2023	1,08,984

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11	16-05-2023	16-06-2023	31	8.7	10.7 as on 15-05-2023	1,12,617
12	16-06-2023	05-07-2023	19	8.7	10.7 as on 15-06-2023	69,023
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 1,16,235						
1	03-12-2022	03-01-2023	31	8.35	10.35 as on 15-11-2022	1,021
2	03-01-2023	03-02-2023	31	8.85	10.85 as on 15-12-2023	1,071
3	03-02-2023	03-03-2023	28	8.6	10.6 as on 15-01-2023	945
4	03-03-2023	03-04-2023	31	8.7	10.7 as on 15-02-2023	1,056
5	03-04-2023	03-05-2023	30	8.7	10.7 as on 15-03-2023	1,022
6	03-05-2023	03-06-2023	31	8.7	10.7 as on 15-04-2023	1,056
7	03-06-2023	03-07-2023	30	8.7	10.7 as on 15-05-2023	1,022
8	03-07-2023	05-07-2023	2	8.7	10.7 as on 15-06-2023	68
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 3,17,187						
1	20-06-2023	05-07-2023	15	8.7	10.7 as on 15-06-2023	1,395
					TOTAL DELAYED INTEREST as on 05/07/2023	12,62,926

25. Accordingly, the point raised above is answered in the Affirmative.

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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.00338/2023 is hereby allowed.

Respondent is directed to pay a sum of **Rs.12,62,926/- (Rupees Twelve Lakh Sixty Two Thousand Nine Hundred and Twenty Six only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 16/7/2022 till 5/7/2023, the date on which the sale deed was executed by the respondent.

The complainants are 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.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA