

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-4

PRESIDED BY SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN

COMPLAINT No: CMP/ 221208/0010438

Dated 12th DAY OF FEBRUARY 2024

COMPLAINANT..

KARTHIKA S. MANU
FLAT NO: 204, SRI SAI
NIVAS, 22ND MAIN
3RD B CROSS, BTM 2ND STAGE
BENGALURU URBAN-560076.

(IN PERSON)

V/s

RESPONDENTS....

1. M/s REDDY STRUCTURES
PRIVATE LIMITED
NO; 133/1, 2ND FLOOR
THE RESIDENCY
RESIDENCY ROAD
BENGALURU URBAN-560025

(REP BY SUJATHA HH
ADVOCATE)

2. M/s WESTERN DEVELOPERS
PLOT NO. C-137, J.J. NAGAR
SAINIKPURI, SECUNDERABAD
HYDERABAD
TELANGANA-500025.

(ABSENT)

PROJECT NAME

MAHAVEER TRIDENT

PROJECT REGISTRATION NO:

**PRM/KA/RERA/1251/310/
PR/190219/002385**



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JUDGEMENT

1. This complaint is filed under section 31 of Real Estate (Regulation and Development) Act, 2016 against the project “ **MAHAVEER TRIDENT**” developed by “ **M/s REDDY STRUCTURES PRIVATE LIMITED**” for the relief of interest on delay period.
2. This project is situated at BBMP Ward No.192, Khatha/Sy.No: 708/28/1, 28/6, Basapura Village, Begur Hobli, Bentaluru South, Bengaluru Urban.
3. The gist of the complaint is that the complainant has booked an apartment unit No.G-11 situated on the ground floor in Block-B in the project known as ‘ **MAHAVEER TRIDENT**’ and entered into an agreement for sale dated 16/1/2021 for a total sale consideration of Rs.71,73,174/- (Rs. Seventy one lakhs seventy three thousand one hundred seventy four only). The complainant has paid an amount of Rs.57,38,539/- (Rs. Fifty seven lakhs eighty eight thousand five hundred thirty nine only) on various dates to the respondent-promoter as per the memo of calculation dated 6/11/2023 submitted by the complainant. The complainant has also borrowed loan from the HDFC Bank towards purchase of the said apartment unit. The respondent was required to hand over the possession of the said flat to the complainant within December 2021 with a grace period of 6 months i.e. by 30th June 2022. It is contended that even after more than one year, the builder has not completed the project though he has paid 80% of the total sale consideration. Both the owner and the builder is responsible for this inordinate delay. Therefore, the complainant has approached this forum for the relief of direction to the respondent to pay interest on delay period. Hence, this complaint.



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4. After registration of the complaint, in pursuance of the notice, the respondent no.1 has appeared before this Authority through its counsel and filed objections as under:

The respondent no.1 denied all the allegations made against it by the complainant as false. It is submitted that the respondent no.1 has entered into a Joint Development Agreement with the landowner M/s Western Developers to develop a residential apartment at BBMP Ward No.192, Khatha/Sy.No.708/28/1, 28/6, Basapura Village, Begur Hobli, Bengaluru South. The said project comprising of 140 units of different dimensions under A,B,C and D blocks, wherein 60 units falls under the share of land owner and the balance 80 units falls under the share of the Respondent no.1/promoter. As the said apartment unit No.G-11, the land owner has executed the agreement of sale. As per the agreement for sale, the land owner agreed to hand over the possession of the said apartment unit within 3 months from the date of issuance of occupancy certificate. The landowner/respondent/promoter was not able to complete the said project within the stipulated timeline due to below mentioned reasons which are beyond the control of the respondent. It is contended that due to COVID-19 the respondent was forced to stop the construction work. Besides, due to the impact of COVID-19, bringing labourers, men and materials to the said project became major concern as a result of which, the construction work got delayed for almost one year. To manage the additional cost increased per each unit, the promoter has availed further loan from the financial institutions. Hence, prayed to dismiss the complaint.

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5. Heard arguments of both the parties.
6. This matter was heard on 6/3/2023, 31/3/2023, 27/4/2023, 29/5/2023, 16/6/2023, 7/7/2023, 18/8/2023, 8/9/2023, 29/9/2023, 6/11/2023, 1/12/2023, 22/12/2023.
7. In support of his claim, the complainant has produced documents such as copy of registered sale agreement, payment vouchers and memo of calculation.
8. On the other hand, in support of defence, the respondent no.1 has produced documents such as copy of the initial RERA registration certificate, copy of extension certificate under COVID-19 Pandemic, copy of extension certificate, copy of agreement of sale.
9. On the above averments, the following points would arise for my consideration:-
 1. Whether the complainant is entitled for the relief claimed?
 2. What order?
10. **Findings on the above points are as under:-**
 1. In the Affirmative.
 2. As per final order for the following:

FINDINGS

11. Findings on point No.1:- The complainant has approached this forum seeking for the relief of payment of interest on delay period. The grounds urged are that the complainant has booked an apartment unit G-11, situated on the ground floor, Block-B in the project "MAHAVEER TRIDENT" of the respondent-promoter for a total sale consideration of



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Rs.71,73,174/- (Rs. Seventy one lakhs seventy three thousand one hundred seventy four only). The builder was required to handover the said apartment unit to the complainant within 31/12/2021 with a grace period of 6 months i.e. by 30/6/2022. The builder has miserably failed to handover possession within the stipulated timeline.

12. Looking to the averments of agreement, parties herein have entered into an agreement of sale dated 16/1/2021. The agreement of sale is 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 dated 16/1/2021, the respondent was supposed to handover the possession of the said flat to the complainants within 31st December 2021 with a grace period of 6 months i.e. by June 2022. But the respondent had not completed and handed over the possession of the said flat to the complainant till date.

13. In the statement of objections, the respondent has sought to explain the delay by referring to several issues such as due to the impact of COVID 19, the construction work was stopped for almost 11 months. Besides, mobilization of labourers, men and materials, additional arrangements of funds to complete the project became major task to the respondent/promoter, as a result of which the construction work was got delayed. The reasons pleaded by the respondent for delay in completion are nothing but routine requirements of compliances and construction related issues which are nothing but routine requirements of compliances and construction related issues which are required to be handled by the promoter of any project who has undertaken to develop the real estate project. None of the reasons submitted by the respondent

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has any force and legal validity to justify the delay in completion of the project and provide any exception from the application of Section 18 of the Act. In addition to which the respondent pleaded that COVID-19 Pandemic and the lockdown have contributed significantly to be obstacles faced by the respondent.

14.As per decision of the Hon'ble Supreme Court of India in appeal No.6750-57/2021, M/s Netwtech Promoters Vs The State of Uttar Pradesh, it is held as under:

PARA-22. *"If we take a conjoint reading of sub sections(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"*

The said principle is aptly applicable to the present case on hand.

15. As per Section 18 of RERA Act, the respondent is liable to pay interest for delay period. Since the claim of the complainant is supported with cogent materials, the delay in handing over possession being apparent, this Authority see no legal impediment in allowing the complaint as prayed. The complainant has paid an amount of Rs.57,38,539/- (Rs. Fifty seven lakhs thirty eight thousand five hundred thirty nine only) to the respondent and has furnished memo of calculation dated 6/11/2023 claiming an amount of Rs.9,56,564 (Rs. Nine lakhs fifty six thousand five hundred sixty four only) towards interest on delay period. The respondent has not filed any memo of calculation for delay period interest nor disputed the memo of calculation submitted by the complaint.



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16. Therefore it is incumbent upon the respondent to pay interest on delay period to the complainants which is determined as below:

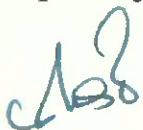
Sl.No.	Period	Amount	Date
1.	Total payment till possession	57,38,539	30/6/2022
2.	Total delayed interest as on 6/11/2023	9,56,564	

17. Having regards to all these aspects, the complainants are entitled for interest on delay period.

18. Sum and substance of the case is as under:

Date of agreement of sale	16/1/2021
Date of construction agreement	Nil
Sale consideration	Rs.71,73,174/- (Rs. Seventy one lakhs seventy three thousand one hundred seventy four only)
Amount paid	Rs.57,38,359/- (Rs. Fifty seven lakhs thirty eight thousand three hundred fifty nine only)
Promised date of possession as per agreement of sale	Within 31/12/2021 with a grace period of 6 months i.e. by 30/6/2022
Date of occupancy certificate	Nil
Whether the possession has been handed over with date	Not yet
Prayer	Interest on delay period

19. Despite notices served upon the respondent no.2, he did not appear before this Authority during the hearings and remained absent. Subsequently, the respondent no.2 has not put forth his defence before



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this Authority and has not taken any interest to file statement of objections, producing documents if any on his defence.

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

20. Findings on point no.2. In view of the above discussion, I conclude that, this complaint deserves to be allowed. Accordingly, 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 complaint bearing No: CMP/221208/0010438 is hereby allowed as under:

1. Both the respondents are hereby directed to pay a sum of Rs.9,56,564 (Rs. Nine lakhs fifty six thousand five hundred sixty four only) towards interest on delay period to the complainant within 60 days from the date of this order calculated at the rate of SBI MCLR +2% from 30/6/2022 till 6/11/2023.
2. The interest due from 7/11/2023 shall be calculated likewise and paid to the complainants till the date of handing over possession.
3. The complainant is at liberty to enforce the said order in accordance with law if the respondent fails to comply with the same.

No order as to costs.


(H.C. Kishore Chandra)
Chairman
K-RERA