

**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 28<sup>th</sup> OCTOBER 2022**

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

**COMPLAINT NO.: CMP/220329/0009283**

**COMPLAINANT.....**

**MR. PROUT CHAKMA &  
MRS. BABINA CHAKMA  
WING 4, 702, SHRIRAM SUMMITT  
GOLLAHALLI ROAD  
ELECTRONIC CITY PHASE-I  
BANGALORE-560100.**

**Vs**

**RESPONDENT.....**

**SHRIRAM PROPERTIES PVT LTD  
40/43, 8<sup>TH</sup> MAIN, 4<sup>TH</sup> CROSS  
SADASHIVA NAGAR  
BANGALORE-560080.**

**SHRIPROP DWELLERS PRIVATE LTD  
40/43, 8<sup>TH</sup> MAIN, 4<sup>TH</sup> CROSS  
RMV Extension  
SADASHIVA NAGAR  
BANGALORE-560080.**

**(By Mr. Joseph Anthony, Advocate  
& others, JSM Law Partners)**

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

**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 SUMMIT" developed by **SHRIRAM PROPERTIES PVT LTD** on Sy.No.80/1, 2, 3, 4, 84/6 & 7, 85/2, 87/2, 89/1 & 2, 121/1, 2, 3, Veerasandra Village & Hebbagodi Village, Attibele, Anekal Taluk, Bengaluru Urban-562107 for the relief of interest on delay.

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2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/308/PR/171015/001121 valid till 31/12/2019. The Authority has extended its registration for a further period of 12 months i.e. till 31/12/2020. The project was extended due to Covid-19 for a period of 9 months till 30/09/2021.

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

3. The complainants had purchased an apartment in the project of respondent and entered into an agreement of sale on 10/04/2018 and have paid an amount of Rs.64,33,803/- (Rupees Sixty Four Lakh Thirty Three Thousand Eight Hundred and Three only) including subsequent payments to the respondent till date. The respondent was supposed to hand over the possession of the flat to the complainants by 31/12/2019. The Occupancy Certificate was obtained from BDA on 7/5/2022 and the actual possession of the flat was given to the complainant on 12/07/2022 the date on which the Sale Deed was registered. The respondent contends that the delay was due to NGT/SC issue, but it was never informed to the complainant. The issue was informed to the complainant only on 27<sup>th</sup> December 2019, as such, the respondent failed to deliver the possession of the flat on time as agreed. There is no proper response from the respondent. Hence, the respondent is liable to pay interest on delay period.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and has filed statement of objections as under:
5. The Respondent contends that the complainant is not entitled for seeking relief sought in light of the Agreement of Sale dated 10/04/2018 and submits that the delay in completion of the project was attributed to the pending litigations against the respondent before the Hon'ble National Green

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Tribunal in O.A.No.222/2014 as well as before the Hon'ble Supreme Court in Civil Appeal No.5016/2016 benches regarding maintenance of buffer zones where the apartment allotted to complainant in respect of the project was situated and on conclusion of the cases in Hon'ble NGT and Hon'ble Supreme Court, the construction proceeded. The respondent submits that on receipt of the Occupancy Certificate on 7/5/2022, the same was informed to the complainant on 30/5/2022.

6. The respondent submits that the project has not been completed within stipulated time due to force majeure events such as, scarcity of raw materials, non-availability of skilled labours, transport disruption or such reasons beyond the control of the respondent, and the respondent cannot be held liable to compensate the complainant under section 18(1) of RERA Act. In addition COVID-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondent. The respondent contends that there is no willful delay or default by the respondent in handing over the possession of the apartment to the complainants and continues to remain committed to delivering the possession to its customers. The respondent denies the allegations of the complainants and submits that the delay has been caused as a result of factors beyond the control of the respondent such as the ruling of the NGT and force majeure of the pandemic. The respondent further submits that the impact of the ruling of the NGT, New Delhi was common knowledge as the same had been extensively published in the media and the newspapers as the same was widely covered in public knowledge and prays not to grant the relief sought by the complainants in the interest of justice and equity.

7. In support of their defence, the respondent has submitted copies of the Occupancy Certificate dtd 7/5/2022, Agreement for Sale dated



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10/04/2018, Order dated 4/5/2016 passed by the Hon'ble National Green Tribunal in O.A.No.222/2014, Order dated 5/3/2019 passed by the Hon'ble Supreme Court in Civil Appeal No.5016/2016, Sanctioned Plan demonstrating the location of the project vis-à-vis the tertiary nala flowing through, email communication with complainants, RERA registration certificate, Sale Deed dated 12/07/2022 and memo of calculation as on 13/10/2022.

8. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale and memo of calculation as on 05/07/2022.

9. Heard arguments of both sides.

10. **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?

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

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

## REASONS

12. **My answer to point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement for sale to handover the apartment within 31/12/2019, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainant till 12/07/2022.

13. During the process of the hearing the Authority directed the respondent to furnish information regarding the date of start of NGT

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litigation, date of order of Hon'ble NGT/Hon'ble Supreme Court, when the appeal was filed in the Hon'ble Supreme Court, date of sale of apartment to the complainant, whether the complainants/customers were kept informed about the litigation existing at the time of sale of agreement, whether they had kept the RERA Authority informed about this litigation at the time of registration, date of application for RERA registration.

14. The respondent have not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainant/customers about the ongoing dispute despite knowing the fact that the Hon'ble NGT order could delay their project. At the time of registration in RERA, the respondent could have taken longer time for completion or could have changed their building plan. The respondent's contention that the ruling of the NGT, New Delhi had been extensively published in the media and newspapers and that the buyer ought to have been aware about the ruling of the NGT, New Delhi is not acceptable. The onus is on the promoter to open all their cards at the time of sales and not to keep the customers in dark.

15. The complainant vide his memo of calculation as on 05/07/2022 have claimed an amount of Rs.13,86,081/- as delay period interest calculated from 31/12/2019 to 05/07/2022. The respondent vide his memo of calculation as on 13/10/2022 has submitted that the delay period interest payable to the complainant is Rs.10,83,615/- (calculated from 31/12/2019 till 7/5/2022) is not accepted, as the cut-off date would be the date of registration of the Sale Deed i.e. 12/07/2022. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest from 31/12/2019 to 12/07/2022.

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16. Therefore, it is incumbent upon the respondent to pay interest on delay as determined as under

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	55,64,624	31-12-2019
2	SUBSEQUENT PAYMENT 1	2,22,816	09-03-2021
3	SUBSEQUENT PAYMENT 2	39,730	10-03-2021
4	SUBSEQUENT PAYMENT 3	50,000	29-10-2021
5	SUBSEQUENT PAYMENT 4	2,21,383	02-11-2021
6	SUBSEQUENT PAYMENT 5	3,35,250	29-12-2021
7	TOTAL PRINCIPLE AMOUNT	64,33,803	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,564,624						
1	31-12-2019	31-01-2020	31	8.2	10.2 as on 10-12-2019	48,206
2	31-01-2020	29-02-2020	29	8.2	10.2 as on 10-01-2020	45,096
3	29-02-2020	29-03-2020	29	8.15	10.15 as on 10-02-2020	44,875
4	29-03-2020	29-04-2020	31	8.05	10.05 as on 10-03-2020	47,497
5	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	44,364
6	29-05-2020	29-06-2020	31	7.55	9.55 as on 10-05-2020	45,134

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7	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	42,535
8	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	43,952
9	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	43,952
10	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	42,535
11	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	43,952
12	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	42,535
13	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	43,952
14	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	42,535
15	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	39,699
16	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	43,952
17	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	42,535
18	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	43,952
19	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	42,535
20	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	43,952
21	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	43,952

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22	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	42,535
23	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	43,952
24	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	42,535
25	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	43,952
26	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	43,952
27	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	39,699
28	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	43,952
29	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	42,992
30	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	44,898
31	28-06-2022	05-07-2022	7	7.7	9.7 as on 15-06-2022	10,351
<b>INTEREST CALCULATION FOR 1 SUBSEQUENT PAYMENT 222,816</b>						
1	09-03-2021	09-04-2021	31	7.3	9.3 as on 10-02-2021	1,759
2	09-04-2021	09-05-2021	30	7.3	9.3 as on 10-03-2021	1,703
3	09-05-2021	09-06-2021	31	7.3	9.3 as on 10-04-2021	1,759
4	09-06-2021	09-07-2021	30	7.3	9.3 as on 15-05-2021	1,703
5	09-07-2021	09-08-2021	31	7.3	9.3 as on 15-06-2021	1,759



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6	09-08-2021	09-09-2021	31	7.3	9.3 as on 15-07-2021	1,759
7	09-09-2021	09-10-2021	30	7.3	9.3 as on 15-08-2021	1,703
8	09-10-2021	09-11-2021	31	7.3	9.3 as on 15-09-2021	1,759
9	09-11-2021	09-12-2021	30	7.3	9.3 as on 15-10-2021	1,703
10	09-12-2021	09-01-2022	31	7.3	9.3 as on 15-11-2021	1,759
11	09-01-2022	09-02-2022	31	7.3	9.3 as on 15-12-2021	1,759
12	09-02-2022	09-03-2022	28	7.3	9.3 as on 15-01-2022	1,589
13	09-03-2022	09-04-2022	31	7.3	9.3 as on 15-02-2022	1,759
14	09-04-2022	09-05-2022	30	7.3	9.3 as on 15-03-2022	1,703
15	09-05-2022	09-06-2022	31	7.4	9.4 as on 15-04-2022	1,778
16	09-06-2022	09-07-2022	26	7.5	9.5 as on 15-05-2022	1,507
<b>INTEREST CALCULATION FOR 2 SUBSEQUENT PAYMENT 39,730</b>						
1	10-03-2021	10-04-2021	31	7.3	9.3 as on 10-03-2021	313
2	10-04-2021	10-05-2021	30	7.3	9.3 as on 10-04-2021	303
3	10-05-2021	10-06-2021	31	7.3	9.3 as on 10-04-2021	313
4	10-06-2021	10-07-2021	30	7.3	9.3 as on 15-05-2021	303

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5	10-07-2021	10-08-2021	31	7.3	9.3 as on 15-06-2021	313
6	10-08-2021	10-09-2021	31	7.3	9.3 as on 15-07-2021	313
7	10-09-2021	10-10-2021	30	7.3	9.3 as on 15-08-2021	303
8	10-10-2021	10-11-2021	31	7.3	9.3 as on 15-09-2021	313
9	10-11-2021	10-12-2021	30	7.3	9.3 as on 15-10-2021	303
10	10-12-2021	10-01-2022	31	7.3	9.3 as on 15-11-2021	313
11	10-01-2022	10-02-2022	31	7.3	9.3 as on 15-12-2021	313
12	10-02-2022	10-03-2022	28	7.3	9.3 as on 15-01-2022	283
13	10-03-2022	10-04-2022	31	7.3	9.3 as on 15-02-2022	313
14	10-04-2022	10-05-2022	30	7.3	9.3 as on 15-03-2022	303
15	10-05-2022	10-06-2022	31	7.4	9.4 as on 15-04-2022	317
16	10-06-2022	05-07-2022	25	7.5	9.5 as on 15-05-2022	258
<b>INTEREST CALCULATION FOR 3 SUBSEQUENT PAYMENT 50,000</b>						
1	29-10-2021	29-11-2021	31	7.3	9.3 as on 15-10-2021	394
2	29-11-2021	29-12-2021	30	7.3	9.3 as on 15-11-2021	382
3	29-12-2021	29-01-2022	31	7.3	9.3 as on 15-12-2021	394

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4	29-01-2022	28-02-2022	30	7.3	9.3 as on 15-01-2022	382
5	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	356
6	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	394
7	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	386
8	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	403
9	28-06-2022	05-07-2022	7	7.7	9.7 as on 15-06-2022	93
<b>INTEREST CALCULATION FOR 4 SUBSEQUENT PAYMENT 221,383</b>						
1	02-11-2021	02-12-2021	30	7.3	9.3 as on 15-10-2021	1,692
2	02-12-2021	02-01-2022	31	7.3	9.3 as on 15-11-2021	1,748
3	02-01-2022	02-02-2022	31	7.3	9.3 as on 15-12-2021	1,748
4	02-02-2022	02-03-2022	28	7.3	9.3 as on 15-01-2022	1,579
5	02-03-2022	02-04-2022	31	7.3	9.3 as on 15-02-2022	1,748
6	02-04-2022	02-05-2022	30	7.3	9.3 as on 15-03-2022	1,692
7	02-05-2022	02-06-2022	31	7.4	9.4 as on 15-04-2022	1,767
8	02-06-2022	02-07-2022	30	7.5	9.5 as on 15-05-2022	1,728
9	02-07-2022	05-07-2022	3	7.7	9.7 as on 15-06-2022	176

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INTEREST CALCULATION FOR 5 SUBSEQUENT PAYMENT 335,250						
1	29-12-2021	29-01-2022	31	7.3	9.3 as on 15-12-2021	2,648
2	29-01-2022	28-02-2022	30	7.3	9.3 as on 15-01-2022	2,562
3	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	2,391
4	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	2,648
5	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	2,590
6	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	2,704
7	28-06-2022	05-07-2022	7	7.7	9.7 as on 15-06-2022	623
					TOTAL DELAYED INTEREST as on 05/07/2022	13,86,081

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

18. **My answer to Point No.2:-** In view of the above discussion, 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/220329/0009283** is hereby allowed. Respondent is directed to pay a sum of **Rs.13,86,081/- (Rupees Thirteen Lakh Eighty Six Thousand and Eighty One only)** towards delay period interest to the complainants within 60 days from the date of

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this order, calculated at MCLR + 2% from 31/12/2019 till 05/07/2022. The interest due from 06/07/2022 till 12/07/2022 will be calculated likewise and paid to the complainants. 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.

  
(Neelmani N Raju)  
Member-2, K-RERA

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