

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 28th OCTOBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220401/0009304

COMPLAINANTS.....

**MR. AMIT KUMAR SINGH &
MRS. SIMMI
FLAT NO.F2, 1ST MAIN, 5TH CROSS
TK REDDY LAYOUT, BANASWADI
BANGALORE-560043.**

Vs

RESPONDENT.....

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

**SHRIPROP DWELLERS PRIVATE LTD
40/43, 8TH MAIN, 4TH 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 09/01/2018 and has paid an amount of Rs.52,83,864/- (Rupees Fifty Two Lakh Eighty Three Thousand Eight Hundred and Sixty Four 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 with a grace period of six months i.e. by 30/6/2020. The Occupancy Certificate was obtained from BDA on 7/5/2022 and the actual possession of the flat was given to the complainants on 16/7/2022 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 complainants. The issue was informed to the complainants only on 27th December 2019, as such, the respondent failed to deliver the possession of the flat on time as agreed. The complainants were compelled to live in a rented house paying huge rent all through the delayed years. The complainants have also sent several emails, met the respondent in person to request handover the apartment on time. 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:

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5. The Respondent contends that the complainants are not entitled for seeking relief sought in light of the Agreement of Sale dated 09/01/2018 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 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 complainants 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 complainants 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

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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 9/1/2018, 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 16/7/2022 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, Statement of Account issued by the respondent regarding payments received from the complainants and memo of calculation as on 29/6/2022.
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

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apartment within 31/12/2019 with the grace period of six months i.e. by 30/6/2020, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainants till 16/7/2022.

13. During the process of the hearing the Authority directed the respondent to furnish information regarding the date of detailed sanctioned plan, date of start of NGT litigation, date of order of Hon'ble NGT/Supreme Court, date of sale of apartment to the complainants, 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.
14. The respondent have not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainants/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 complainants vide their memo of calculation as on 29/6/2022 have claimed an amount of Rs.10,39,629/- as delay period interest calculated from 31/12/2019 to 29/6/2022. The respondent vide his memo

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of calculation as on 13/10/2022 has submitted that the delay period interest payable to the complainants is Rs.7,07,429/- (calculated from 30/06/2020 till 7/5/2022). At the time of entering into agreement of sale on 09/01/2018, the complainants had agreed to abide by the condition that the possession of the apartment will be handed over by 31/12/2019 with a grace period of six months. Keeping in view the above fact, the Authority is of the opinion that the delay period interest to the complainants would be allowed from 30/06/2020 till 16/7/2022 the date on which the Sale Deed was registered. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 30/06/2020 to 16/07/2022.

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	35,59,567	30-06-2020
2	SUBSEQUENT PAYMENT 1	93,104	19-01-2021
3	SUBSEQUENT PAYMENT 2	3,00,000	26-02-2021
4	SUBSEQUENT PAYMENT 3	3,69,707	09-04-2021
5	SUBSEQUENT PAYMENT 4	1,000	10-11-2021
6	SUBSEQUENT PAYMENT 5	2,54,600	10-11-2021
7	SUBSEQUENT PAYMENT 6	35,000	25-12-2021
8	SUBSEQUENT PAYMENT 7	51,120	24-05-2022
9	SUBSEQUENT PAYMENT 8	3,854	24-05-2022
10	SUBSEQUENT PAYMENT 9	4,79,048	20-07-2022
11	TOTAL PRINCIPLE AMOUNT	51,47,000	

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Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 3,559,567						
1	30-06-2020	30-07-2020	30	7.3	9.3 as on 10-06-2020	27,208
2	30-07-2020	30-08-2020	31	7.3	9.3 as on 10-07-2020	28,115
3	30-08-2020	30-09-2020	31	7.3	9.3 as on 10-08-2020	28,115
4	30-09-2020	30-10-2020	30	7.3	9.3 as on 10-09-2020	27,208
5	30-10-2020	30-11-2020	31	7.3	9.3 as on 10-10-2020	28,115
6	30-11-2020	30-12-2020	30	7.3	9.3 as on 10-11-2020	27,208
7	30-12-2020	30-01-2021	31	7.3	9.3 as on 10-12-2020	28,115
8	30-01-2021	28-02-2021	29	7.3	9.3 as on 10-01-2021	26,301
9	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	25,394
10	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	28,115
11	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	27,208
12	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	28,115

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13	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	27,208
14	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	28,115
15	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	28,115
16	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	27,208
17	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	28,115
18	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	27,208
19	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	28,115
20	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	28,115
21	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	25,394
22	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	28,115
23	28-04-2022	07-05-2022	9	7.4	9.4 as on 15-04-2022	8,250
INTEREST CALCULATION FOR 1 SUBSEQUENT PAYMENT 93,104						
1	19-01-2021	19-02-2021	31	7.3	9.3 as on 10-01-2021	735
2	19-02-2021	19-03-2021	28	7.3	9.3 as on 10-02-2021	664
3	19-03-2021	19-04-2021	31	7.3	9.3 as on 10-03-2021	735
4	19-04-2021	19-05-2021	30	7.3	9.3 as on 10-04-2021	711

20/05/22

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5	19-05-2021	19-06-2021	31	7.3	9.3 as on 15-05-2021	735
6	19-06-2021	19-07-2021	30	7.3	9.3 as on 15-06-2021	711
7	19-07-2021	19-08-2021	31	7.3	9.3 as on 15-07-2021	735
8	19-08-2021	19-09-2021	31	7.3	9.3 as on 15-08-2021	735
9	19-09-2021	19-10-2021	30	7.3	9.3 as on 15-09-2021	711
10	19-10-2021	19-11-2021	31	7.3	9.3 as on 15-10-2021	735
11	19-11-2021	19-12-2021	30	7.3	9.3 as on 15-11-2021	711
12	19-12-2021	19-01-2022	31	7.3	9.3 as on 15-12-2021	735
13	19-01-2022	19-02-2022	31	7.3	9.3 as on 15-01-2022	735
14	19-02-2022	19-03-2022	28	7.3	9.3 as on 15-02-2022	664
15	19-03-2022	19-04-2022	31	7.3	9.3 as on 15-03-2022	735
16	19-04-2022	07-05-2022	18	7.4	9.4 as on 15-04-2022	431
INTEREST CALCULATION FOR 2 SUBSEQUENT PAYMENT 300,000						
1	26-02-2021	26-03-2021	28	7.3	9.3 as on 10-02-2021	2,140
2	26-03-2021	26-04-2021	31	7.3	9.3 as on 10-03-2021	2,369
3	26-04-2021	26-05-2021	30	7.3	9.3 as on 10-04-2021	2,293

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4	26-05-2021	26-06-2021	31	7.3	9.3 as on 15-05-2021	2,369
5	26-06-2021	26-07-2021	30	7.3	9.3 as on 15-06-2021	2,293
6	26-07-2021	26-08-2021	31	7.3	9.3 as on 15-07-2021	2,369
7	26-08-2021	26-09-2021	31	7.3	9.3 as on 15-08-2021	2,369
8	26-09-2021	26-10-2021	30	7.3	9.3 as on 15-09-2021	2,293
9	26-10-2021	26-11-2021	31	7.3	9.3 as on 15-10-2021	2,369
10	26-11-2021	26-12-2021	30	7.3	9.3 as on 15-11-2021	2,293
11	26-12-2021	26-01-2022	31	7.3	9.3 as on 15-12-2021	2,369
12	26-01-2022	26-02-2022	31	7.3	9.3 as on 15-01-2022	2,369
13	26-02-2022	26-03-2022	28	7.3	9.3 as on 15-02-2022	2,140
14	26-03-2022	26-04-2022	31	7.3	9.3 as on 15-03-2022	2,369
15	26-04-2022	07-05-2022	11	7.4	9.4 as on 15-04-2022	849
INTEREST CALCULATION FOR 3 SUBSEQUENT PAYMENT 369,707						
1	09-04-2021	09-05-2021	30	7.3	9.3 as on 10-03-2021	2,825
2	09-05-2021	09-06-2021	31	7.3	9.3 as on 10-04-2021	2,920
3	09-06-2021	09-07-2021	30	7.3	9.3 as on 15-05-2021	2,825

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4	09-07-2021	09-08-2021	31	7.3	9.3 as on 15-06-2021	2,920
5	09-08-2021	09-09-2021	31	7.3	9.3 as on 15-07-2021	2,920
6	09-09-2021	09-10-2021	30	7.3	9.3 as on 15-08-2021	2,825
7	09-10-2021	09-11-2021	31	7.3	9.3 as on 15-09-2021	2,920
8	09-11-2021	09-12-2021	30	7.3	9.3 as on 15-10-2021	2,825
9	09-12-2021	09-01-2022	31	7.3	9.3 as on 15-11-2021	2,920
10	09-01-2022	09-02-2022	31	7.3	9.3 as on 15-12-2021	2,920
11	09-02-2022	09-03-2022	28	7.3	9.3 as on 15-01-2022	2,637
12	09-03-2022	09-04-2022	31	7.3	9.3 as on 15-02-2022	2,920
13	09-04-2022	07-05-2022	28	7.3	9.3 as on 15-03-2022	2,637
INTEREST CALCULATION FOR 4 SUBSEQUENT PAYMENT 1,000						
1	10-11-2021	10-12-2021	30	7.3	9.3 as on 15-10-2021	7
2	10-12-2021	10-01-2022	31	7.3	9.3 as on 15-11-2021	7
3	10-01-2022	10-02-2022	31	7.3	9.3 as on 15-12-2021	7
4	10-02-2022	10-03-2022	28	7.3	9.3 as on 15-01-2022	7
5	10-03-2022	10-04-2022	31	7.3	9.3 as on 15-02-2022	7

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6	10-04-2022	07-05-2022	27	7.3	9.3 as on 15-03-2022	6
INTEREST CALCULATION FOR 5 SUBSEQUENT PAYMENT 254,600						
1	10-11-2021	10-12-2021	30	7.3	9.3 as on 15-10-2021	1,946
2	10-12-2021	10-01-2022	31	7.3	9.3 as on 15-11-2021	2,010
3	10-01-2022	10-02-2022	31	7.3	9.3 as on 15-12-2021	2,010
4	10-02-2022	10-03-2022	28	7.3	9.3 as on 15-01-2022	1,816
5	10-03-2022	10-04-2022	31	7.3	9.3 as on 15-02-2022	2,010
6	10-04-2022	07-05-2022	27	7.3	9.3 as on 15-03-2022	1,751
INTEREST CALCULATION FOR 6 SUBSEQUENT PAYMENT 35,000						
1	25-12-2021	25-01-2022	31	7.3	9.3 as on 15-12-2021	276
2	25-01-2022	25-02-2022	31	7.3	9.3 as on 15-01-2022	276
3	25-02-2022	25-03-2022	28	7.3	9.3 as on 15-02-2022	249
4	25-03-2022	25-04-2022	31	7.3	9.3 as on 15-03-2022	276
5	25-04-2022	07-05-2022	12	7.4	9.4 as on 15-04-2022	108
INTEREST CALCULATION FOR 7 SUBSEQUENT PAYMENT 51,120						
INTEREST CALCULATION FOR 8 SUBSEQUENT PAYMENT 3,854						
INTEREST CALCULATION FOR 9 SUBSEQUENT PAYMENT 479,048						

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					TOTAL DELAYED INTEREST as on 07/05/2022	7,07,429
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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/220401/0009304** is hereby allowed. Respondent is directed to pay a sum of **Rs.7,07,429/- (Rupees Seven Lakh Seven Thousand Four Hundred and Twenty Nine only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 30/06/2020 till 07/05/2022. The interest due from 08/05/2022 till 16/7/2022 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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