

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/220328/0009264

COMPLAINANT.....

**MR. PRAKASH SUNDARAM
NO.303, VANDANA PRIMEROSE
3RD SECTOR, HSR LAYOUT
BANGALORE-560102.**

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.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/308/PR/171015/001121 valid till 31/12/2019.

M. S.

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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 complainant had purchased an apartment in the project of respondent and entered into an agreement of sale on 26/02/2018 and has paid an amount of Rs.65,07,743/- (Rupees Sixty Five Lakh Seven Thousand Seven Hundred and Forty Three only) including subsequent payments to the respondent till date. The respondent was supposed to hand over the possession of the flat to the complainant 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 08/07/2022 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 27th December 2019, as such, the respondent failed to deliver the possession of the flat on time as agreed. The complainant has paid pre-EMI for 12 months till February 2019 and then on paying EMI as well as the rent. 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 26/02/2018 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 26/2/2018,

PLW

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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 08/07/2022 and memo of calculation as on 12/10/2022.

8. In support of his claim, the complainant has produced documents such as copies of Agreement of Sale, Statement of Account issued by the respondent regarding payments received from the complainant and memo of calculation as on 25/06/2022.

9. Heard arguments of both sides.

10. **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?

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 08/07/2022.

Mh

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13. During the process of the hearing the Authority directed the respondent to furnish information regarding the date of start of NGT 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 25/06/2022 have claimed an amount of Rs.12,50,499/- as delay period interest calculated from 31/12/2019 to 25/06/2022. The respondent vide his memo of calculation as on 12/10/2022 has submitted that the delay period interest payable to the complainant is Rs.10,22,383/- (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. 08/07/2022. In fact the cut-off



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date would be the date on which the Sale Deed was registered. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest from 31/12/2019 to 08/07/2022.

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	43,98,686	31-12-2019
2	SUBSEQUENT PAYMENT 1	3,38,360	25-01-2020
3	SUBSEQUENT PAYMENT 2	2,00,000	15-03-2021
4	SUBSEQUENT PAYMENT 3	2,00,000	15-03-2021
5	SUBSEQUENT PAYMENT 4	2,00,000	19-03-2021
6	SUBSEQUENT PAYMENT 5	4,15,081	24-07-2021
7	SUBSEQUENT PAYMENT 6	3,38,361	19-11-2021
8	SUBSEQUENT PAYMENT 7	3,52,500	24-12-2021
9	SUBSEQUENT PAYMENT 8	4,334	23-05-2022
10	SUBSEQUENT PAYMENT 9	60,421	25-05-2022
11	TOTAL PRINCIPLE AMOUNT	65,07,743	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 4,398,686						
1	31-12-2019	31-01-2020	31	8.2	10.2 as on 10-12-2019	38,105
2	31-01-2020	29-02-2020	29	8.2	10.2 as on 10-01-2020	35,647

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3	29-02-2020	29-03-2020	29	8.15	10.15 as on 10-02-2020	35,472
4	29-03-2020	29-04-2020	31	8.05	10.05 as on 10-03-2020	37,545
5	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	35,068
6	29-05-2020	29-06-2020	31	7.55	9.55 as on 10-05-2020	35,677
7	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	33,622
8	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	34,743
9	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	34,743
10	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	33,622
11	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	34,743
12	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	33,622
13	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	34,743
14	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	33,622
15	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	31,381
16	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	34,743
17	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	33,622

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18	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	34,743
19	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	33,622
20	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	34,743
21	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	34,743
22	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	33,622
23	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	34,743
24	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	33,622
25	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	34,743
26	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	34,743
27	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	31,381
28	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	34,743
29	28-04-2022	28-05-2022	30	7.3	9.3 as on 15-03-2022	33,622
30	28-05-2022	25-06-2022	28	7.3	9.3 as on 15-03-2022	31,381
INTEREST CALCULATION FOR 1 SUBSEQUENT PAYMENT 338,360						
1	25-01-2020	25-02-2020	31	8.2	10.2 as on 10-01-2020	2,931
2	25-02-2020	25-03-2020	29	8.15	10.15 as on 10-02-2020	2,728

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3	25-03-2020	25-04-2020	31	8.05	10.05 as on 10-03-2020	2,888
4	25-04-2020	25-05-2020	30	7.7	9.7 as on 10-04-2020	2,697
5	25-05-2020	25-06-2020	31	7.55	9.55 as on 10-05-2020	2,744
6	25-06-2020	25-07-2020	30	7.3	9.3 as on 10-06-2020	2,586
7	25-07-2020	25-08-2020	31	7.3	9.3 as on 10-07-2020	2,672
8	25-08-2020	25-09-2020	31	7.3	9.3 as on 10-08-2020	2,672
9	25-09-2020	25-10-2020	30	7.3	9.3 as on 10-09-2020	2,586
10	25-10-2020	25-11-2020	31	7.3	9.3 as on 10-10-2020	2,672
11	25-11-2020	25-12-2020	30	7.3	9.3 as on 10-11-2020	2,586
12	25-12-2020	25-01-2021	31	7.3	9.3 as on 10-12-2020	2,672
13	25-01-2021	25-02-2021	31	7.3	9.3 as on 10-01-2021	2,672
14	25-02-2021	25-03-2021	28	7.3	9.3 as on 10-02-2021	2,413
15	25-03-2021	25-04-2021	31	7.3	9.3 as on 10-03-2021	2,672
16	25-04-2021	25-05-2021	30	7.3	9.3 as on 10-04-2021	2,586
17	25-05-2021	25-06-2021	31	7.3	9.3 as on 15-05-2021	2,672

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18	25-06-2021	25-07-2021	30	7.3	9.3 as on 15-06-2021	2,586
19	25-07-2021	25-08-2021	31	7.3	9.3 as on 15-07-2021	2,672
20	25-08-2021	25-09-2021	31	7.3	9.3 as on 15-08-2021	2,672
21	25-09-2021	25-10-2021	30	7.3	9.3 as on 15-09-2021	2,586
22	25-10-2021	25-11-2021	31	7.3	9.3 as on 15-10-2021	2,672
23	25-11-2021	25-12-2021	30	7.3	9.3 as on 15-11-2021	2,586
24	25-12-2021	25-01-2022	31	7.3	9.3 as on 15-12-2021	2,672
25	25-01-2022	25-02-2022	31	7.3	9.3 as on 15-01-2022	2,672
26	25-02-2022	25-03-2022	28	7.3	9.3 as on 15-02-2022	2,413
27	25-03-2022	25-04-2022	31	7.3	9.3 as on 15-03-2022	2,672
28	25-04-2022	25-05-2022	30	7.3	9.3 as on 15-03-2022	2,586
29	25-05-2022	25-06-2022	31	7.3	9.3 as on 15-03-2022	2,672
INTEREST CALCULATION FOR 2 SUBSEQUENT PAYMENT 200,000						
1	15-03-2021	15-04-2021	31	7.3	9.3 as on 10-03-2021	1,579
2	15-03-2021	15-04-2021	31	7.3	9.3 as on 10-03-2021	1,579
3	19-03-2021	19-04-2021	31	7.3	9.3 as on 10-03-2021	1,579

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4	15-04-2021	15-05-2021	30	7.3	9.3 as on 10-04-2021	1,528
5	15-04-2021	15-05-2021	30	7.3	9.3 as on 10-04-2021	1,528
6	19-04-2021	19-05-2021	30	7.3	9.3 as on 10-04-2021	1,528
7	15-05-2021	15-06-2021	31	7.3	9.3 as on 15-05-2021	1,579
8	15-05-2021	15-06-2021	31	7.3	9.3 as on 15-05-2021	1,579
9	19-05-2021	19-06-2021	31	7.3	9.3 as on 15-05-2021	1,579
10	15-06-2021	15-07-2021	30	7.3	9.3 as on 15-06-2021	1,528
11	15-06-2021	15-07-2021	30	7.3	9.3 as on 15-06-2021	1,528
12	19-06-2021	19-07-2021	30	7.3	9.3 as on 15-06-2021	1,528
13	15-07-2021	15-08-2021	31	7.3	9.3 as on 15-07-2021	1,579
14	15-07-2021	15-08-2021	31	7.3	9.3 as on 15-07-2021	1,579
15	19-07-2021	19-08-2021	31	7.3	9.3 as on 15-07-2021	1,579
16	15-08-2021	15-09-2021	31	7.3	9.3 as on 15-08-2021	1,579
17	15-08-2021	15-09-2021	31	7.3	9.3 as on 15-08-2021	1,579
18	19-08-2021	19-09-2021	31	7.3	9.3 as on 15-08-2021	1,579

15/8/21

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19	15-09-2021	15-10-2021	30	7.3	9.3 as on 15-09-2021	1,528
20	15-09-2021	15-10-2021	30	7.3	9.3 as on 15-09-2021	1,528
21	19-09-2021	19-10-2021	30	7.3	9.3 as on 15-09-2021	1,528
22	15-10-2021	15-11-2021	31	7.3	9.3 as on 15-10-2021	1,579
23	15-10-2021	15-11-2021	31	7.3	9.3 as on 15-10-2021	1,579
24	19-10-2021	19-11-2021	31	7.3	9.3 as on 15-10-2021	1,579
25	15-11-2021	15-12-2021	30	7.3	9.3 as on 15-11-2021	1,528
26	15-11-2021	15-12-2021	30	7.3	9.3 as on 15-11-2021	1,528
27	19-11-2021	19-12-2021	30	7.3	9.3 as on 15-11-2021	1,528
28	15-12-2021	15-01-2022	31	7.3	9.3 as on 15-12-2021	1,579
29	15-12-2021	15-01-2022	31	7.3	9.3 as on 15-12-2021	1,579
30	19-12-2021	19-01-2022	31	7.3	9.3 as on 15-12-2021	1,579
31	15-01-2022	15-02-2022	31	7.3	9.3 as on 15-01-2022	1,579
32	15-01-2022	15-02-2022	31	7.3	9.3 as on 15-01-2022	1,579
33	19-01-2022	19-02-2022	31	7.3	9.3 as on 15-01-2022	1,579

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34	15-02-2022	15-03-2022	28	7.3	9.3 as on 15-02-2022	1,426
35	15-02-2022	15-03-2022	28	7.3	9.3 as on 15-02-2022	1,426
36	19-02-2022	19-03-2022	28	7.3	9.3 as on 15-02-2022	1,426
37	15-03-2022	15-04-2022	31	7.3	9.3 as on 15-03-2022	1,579
38	15-03-2022	15-04-2022	31	7.3	9.3 as on 15-03-2022	1,579
39	19-03-2022	19-04-2022	31	7.3	9.3 as on 15-03-2022	1,579
40	15-04-2022	15-05-2022	30	7.3	9.3 as on 15-03-2022	1,528
41	15-04-2022	15-05-2022	30	7.3	9.3 as on 15-03-2022	1,528
42	19-04-2022	19-05-2022	30	7.3	9.3 as on 15-03-2022	1,528
43	15-05-2022	15-06-2022	31	7.3	9.3 as on 15-03-2022	1,579
44	15-05-2022	15-06-2022	31	7.3	9.3 as on 15-03-2022	1,579
45	19-05-2022	19-06-2022	31	7.3	9.3 as on 15-03-2022	1,579
46	15-06-2022	25-06-2022	10	7.3	9.3 as on 15-03-2022	509
47	15-06-2022	25-06-2022	10	7.3	9.3 as on 15-03-2022	509
48	19-06-2022	25-06-2022	6	7.3	9.3 as on 15-03-2022	305
INTEREST CALCULATION FOR 3 SUBSEQUENT PAYMENT 415,081						

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Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

1	24-07-2021	24-08-2021	31	7.3	9.3 as on 15-07-2021	3,278
2	24-08-2021	24-09-2021	31	7.3	9.3 as on 15-08-2021	3,278
3	24-09-2021	24-10-2021	30	7.3	9.3 as on 15-09-2021	3,172
4	24-10-2021	24-11-2021	31	7.3	9.3 as on 15-10-2021	3,278
5	24-11-2021	24-12-2021	30	7.3	9.3 as on 15-11-2021	3,172
6	24-12-2021	24-01-2022	31	7.3	9.3 as on 15-12-2021	3,278
7	24-01-2022	24-02-2022	31	7.3	9.3 as on 15-01-2022	3,278
8	24-02-2022	24-03-2022	28	7.3	9.3 as on 15-02-2022	2,961
9	24-03-2022	24-04-2022	31	7.3	9.3 as on 15-03-2022	3,278
10	24-04-2022	24-05-2022	30	7.3	9.3 as on 15-03-2022	3,172
11	24-05-2022	24-06-2022	31	7.3	9.3 as on 15-03-2022	3,278
12	24-06-2022	25-06-2022	1	7.3	9.3 as on 15-03-2022	105
INTEREST CALCULATION FOR 4 SUBSEQUENT PAYMENT 338,361						
1	19-11-2021	19-12-2021	30	7.3	9.3 as on 15-11-2021	2,586
2	19-12-2021	19-01-2022	31	7.3	9.3 as on 15-12-2021	2,672
3	19-01-2022	19-02-2022	31	7.3	9.3 as on 15-01-2022	2,672

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Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

4	19-02-2022	19-03-2022	28	7.3	9.3 as on 15-02-2022	2,413
5	19-03-2022	19-04-2022	31	7.3	9.3 as on 15-03-2022	2,672
6	19-04-2022	19-05-2022	30	7.3	9.3 as on 15-03-2022	2,586
7	19-05-2022	19-06-2022	31	7.3	9.3 as on 15-03-2022	2,672
8	19-06-2022	25-06-2022	6	7.3	9.3 as on 15-03-2022	517
INTEREST CALCULATION FOR 5 SUBSEQUENT PAYMENT 352,500						
1	24-12-2021	24-01-2022	31	7.3	9.3 as on 15-12-2021	2,784
2	24-01-2022	24-02-2022	31	7.3	9.3 as on 15-01-2022	2,784
3	24-02-2022	24-03-2022	28	7.3	9.3 as on 15-02-2022	2,514
4	24-03-2022	24-04-2022	31	7.3	9.3 as on 15-03-2022	2,784
5	24-04-2022	24-05-2022	30	7.3	9.3 as on 15-03-2022	2,694
6	24-05-2022	24-06-2022	31	7.3	9.3 as on 15-03-2022	2,784
7	24-06-2022	25-06-2022	1	7.3	9.3 as on 15-03-2022	89
INTEREST CALCULATION FOR 6 SUBSEQUENT PAYMENT 4,334						
1	23-05-2022	23-06-2022	31	7.3	9.3 as on 15-03-2022	34
2	23-06-2022	25-06-2022	2	7.3	9.3 as on 15-03-2022	2
INTEREST CALCULATION FOR 7 SUBSEQUENT PAYMENT 60,421						

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Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027


1	25-05-2022	25-06-2022	31	7.3	9.3 as on 15-03-2022	477
					TOTAL DELAYED INTEREST as on 25/06/2022	12,50,499

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/220328/0009264** is hereby allowed. Respondent is directed to pay a sum of **Rs.12,50,499/- (Rupees Twelve Lakh Fifty Thousand Four Hundred and Ninety Nine only)** towards delay period interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 31/12/2019 till 25/06/2022. The interest due from 26/06/2022 till 08/07/2022 will be calculated likewise and paid to the complainant. The complainant is 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