

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 30th JUNE 2022

COMPLAINT NO: CMP/200815/0006322

COMPLAINANTS.....

Mr Vinod Kumar and Parul Chaudhary
170/16, 20th C cross, 7th Main,
C Block, Sahakarnagar
Bengaluru-560092.
(In person)

V/S

RESPONDENTS.....

Ozone Urbana Infra Developers Pvt Ltd.
No.38, Ulsoor Road ,
Bengaluru – 560042.

(By Sri. Deepak Bhaskar & Associates
Advocates)

* * * * *

This complaint is filed under section 31 of the RERA Act against the project
“Ozone Urbana” for the relief of refund with interest.

Brief facts of the complaint are as under:-

The complainants have purchased an apartment in the project of respondent in Ozone Urbana and entered into an agreement of sale and construction agreement on 11/09/2014. The said project was sold to them in August 2014 with a completion date of October 2016. But the project is not completed till date and the builder is not responding to any query. Hence, this complaint.

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After registering the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel. But it has not contested the matter by filing statement of objections, producing documents on its behalf, etc.,

In support of his claim, the complainant has produced in all 6 documents such as copies of payment statement, booking form, Agreement of Sale, construction agreement, brochure and occupancy certificate.

Heard arguments.

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?

My answer to the above points are as under:-

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

REASONS

My answer to point No.1:- The respondent has not controverted the claim of complainants that there is a failure on its part to handover the possession of the apartment within agreed time i.e. October 2016. It is also relevant to note that the complainants have parted with the amount of Rs.54,08,248/- as long back as August 2014. Even it is not the case of the respondent that they are going to handover the possession of the apartment in near future. The very fact that during the pendency of the proceedings respondent company has agreed to pay a sum of Rs.92,55,295/- in settlement of this dispute fortifies this

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aspect. Therefore, it is to be held that the complainants are entitled for refund of the amount as prayed with interest.

Interest calculation till 30/04/2017 (Before RERA)

| Sl. No. | Date | Amount paid by customer | No. of days till 30/04/2017 | Interest @ 9% |
|---------|------------|-------------------------|-----------------------------|---------------|
| 1 | 17-08-2014 | 5,59,407 | 987 | 1,36,142 |
| 2 | 02-09-2014 | 5,60,947 | 971 | 1,34,304 |
| 3 | 08-10-2014 | 8,70,708 | 935 | 2,00,739 |
| 4 | 16-03-2015 | 8,52,652 | 776 | 1,63,148 |
| 5 | 28-04-2015 | 8,52,652 | 733 | 1,54,108 |
| 6 | 13-07-2015 | 5,70,622 | 657 | 92,440 |
| 7 | 08-09-2015 | 11,41,260 | 600 | 1,68,843 |
| | | | TOTAL INTEREST (I1) | 10,49,724 |

Interest calculation from 01/05/2017 (After RERA)

| Sl. No | Date from 01/05/2017 | Amount paid by customer | No of days | No of days till | Interest rate X+2% | Interest @X+2% |
|--------|----------------------|-------------------------|------------|-----------------|------------------------|----------------|
| 1 | 01-05-2017 | 54,08,248 | 1860 | 04-06-2022 | 10.15 as on 01-05-2017 | 27,97,323 |
| | | | | | TOTAL INTEREST (I2) | 27,97,323 |

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MEMO OF CALCULATION


| PRINCIPLE AMOUNT (A) | INTEREST (B= I1 + I2) AS ON 06-06-2022 | REFUND FROM PROMOTER (C) | TOTAL BALANCE AMOUNT (A + B - C) |
|-----------------------------------|---|---|---|
| 54,08,248 | 38,47,047 | 0 | 92,55,295 |

However, since the parties have agreed to settle the dispute and even agreed upon a particular sum, this Authority is not inclined to interfere with the same and proceeds to allow this complaint subject to the terms agreed between the parties. Accordingly, the point raised above is answered in the Affirmative.

My answer to point No.2:- In view of the above discussion, 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/200815/0006322 is hereby allowed. Respondent is directed to pay a sum of Rs.92,55,295/- (Rupees Ninety Two Lakh Fifty Five Thousand Two Hundred and Ninety Five only) as on 4/6/2022 to the complainants within 60 days from the date of this order. The interest accruing from 5/6/2022 till the date of final payment will be calculated and paid likewise. Failing which, the complainants are at liberty to enforce this order in accordance with law.


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