

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 7th JULY 2022

COMPLAINT NO.: CMP/220127/0008877

COMPLAINANTS.....

Mrs.Bhavana Raju Sadhwani

2311, 1st Cross,
HAL 3rd Stage Extn,
Opp. KEMP FORT,
Airport Road,
Bengaluru-560017.

(by Advocate Sri. Sadanand Shastri,
Shastri Associates)

V/S

RESPONDENTS.....

Ozone Urbana Infra Developers Pvt Ltd

No.38, Ulsoor Road ,
Bengaluru – 560042.

(By Sri.Deepak Bhaskar & Associates
Advocates)

* * * * *

J U D G E M E N T

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

Brief facts of the complaint are as under:-

The complainant has purchased a flat in the project of respondent and entered into an Agreement for Sale on 18-3-2017. She has paid a total sum of Rs.42,27,845/-

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(Rupees Forty Two Lakh Twenty Seven Thousand Eight Hundred and Forty Five only) to the respondent being the full value of the flat. The respondent failed to deliver the flat as agreed upon in the agreement and did not handover the possession of the flat till date. Respondent has not refunded their booking amount till date in spite of lapses from Ozone group. Hence, this complaint.

After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and it has not filed any statement of objections, replies and not produced any documents, etc.

As per section 18(1) of RERA Act in case the allottee wishes to withdraw from the project, the promoter is liable without prejudice to any other remedy available, to return the amount received by her in respect of that apartment, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this act.

Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.

In support of her claim, the complainant has uploaded in all 7 documents such as copies of Agreement of Sale, payment receipts, construction agreement, allotment letter, accounts statement, mail conversation and services agreement, .

Heard arguments.

On the above averments, the following points would arise for my consideration:-

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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:- Admittedly, the complainant has paid Rs.42,27,845/- towards the allotment of apartment in the year 2017. Even after lapse of 4 years, the respondent failed to handover the possession of the flat as promised in the Agreement of Sale. Hence, the complainant is entitled for refund of entire amount paid by him along with interest. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as below.

Further, the complainant has sought for compensation for mental agony. However, awarding compensation for mental agony does not come under the jurisdiction of this Authority.

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	07-03-2017	10,10,125	54	13,449
2	12-04-2017	3,42,776	18	1,521
6			TOTAL INTEREST(I1)	14,970

plus

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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	13,52,901	1853	28-05-2022	10.15 as on 01-05-2017	6,97,131
2	29-06-2017	3,35,769	1794	28-05-2022	10.15 as on 01-06-2017	1,67,508
3	21-09-2017	3,48,509	1710	28-05-2022	10.15 as on 01-09-2017	1,65,723
4	28-10-2017	2,61,381	1673	28-05-2022	10.15 as on 01-10-2017	1,21,602
5	02-01-2018	2,61,381	1607	28-05-2022	10.1 as on 01-01-2018	1,16,230
6	02-01-2018	3,70,000	738	10-01-2020	10.1 as on 01-01-2018	75,559
7	14-02-2018	2,61,381	1564	28-05-2022	10.1 as on 01-02-2018	1,13,119
8	17-02-2018	2,00,000	692	10-01-2020	10.1 as on 01-02-2018	38,296
9	06-03-2019	4,35,636	1179	28-05-2022	10.75 as on 10-02-2019	1,51,270
10	10-01-2020	1,32,952	869	28-05-2022	10.2 as on 10-01-2020	32,286
11	10-01-2020	63,935	869	28-05-2022	10.2 as on 10-01-2020	15,526
12	03-02-2020	1,00,000	845	28-05-2022	10.2 as on 10-01-2020	23,613
13	23-02-2020	54,000	825	28-05-2022	10.15 as on 10-02-2020	12,388

Relu

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14	27-02-2020	50,000	821	28-05-2022	10.15 as on 10-02-2020	11,415
					TOTAL INTEREST (I2)	17,41,666

REFUND INTEREST CALCULATION

Principle Amount	Refund Date	Refund amount	Balance	No. of days	No. of days till	Interest rate X+2%	Interest @X+2%
42,27,845	10-01-2020	80,514	41,47,331	869	28-05-2022	10.2 as on 10-01-2020	10,07,153
						TOTAL INTEREST (I3)	10,07,153

MEMO OF CALCULATION

PRINCIPLE AMOUNT (A)	INTEREST (B= I1 + I2 + I3) AS ON 06-06-2022	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
42,27,845	27,63,789	80,514	69,11,120

Accordingly, I answer this point 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/220127/0008877 is hereby allowed. Respondent is directed to pay a sum of Rs.69,11,120/- (Rupees Sixty Nine

M/S

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Lakh Eleven Thousand One Hundred and Twenty only) as on 28/5/2022 to the complainant within 60 days from the date of this order. The interest accruing from 29/5/2022 till the date of final payment will be calculated and paid likewise. Failing which the complainant is at liberty to enforce this order in accordance with law.


(Neelmani N Raju)
Member-2
K-RERA

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