

**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 12th JULY 2022**

**COMPLAINT NO.: CMP/200922/0006643**

**COMPLAINANTS.....**

**Kanishka Kumar**

102/11, Heritage Estate,  
Doddaballapur Road, Yelahanka,  
Bengaluru-560064.

(In person)

**V/S**

**RESPONDENTS.....**

**Ozone Urbana Infra Developers Pvt Ltd.**

No.38, Ulsoor Road ,  
Bengaluru - 560042.

(By Sri.Deepak Bhaskar & Associates  
Advocates)

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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 complainant has purchased an apartment in the project of respondent in Ozone Urbana and entered into an agreement for sale and construction agreement on 18/05/2016. The builder has not completed the project as per agreement of sale and has delayed the project for over 36 months and has not completed the same till date. Hence, this complaint.

After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel. But it has not

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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, payment receipts, booking form, Agreement of Sale, construction agreement and brochure.

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:-**From the materials placed on record, it is apparent that inspite of entering into an agreement to handover the possession, the builder has not completed the project as per agreement and has delayed the project for over 36 months. Hence, the builder has failed to abide by the terms of the agreement. There seems to be no possibility of completing the project or handing over the possession in near future.

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 him in respect of that apartment, plot, building as the case may be with interest at such

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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 addition, having chosen to keep silence inspite of appearance about the claim of the complainant, the respondent builder has virtually accepted the claim in question. It is also relevant to note that during the course of proceedings parties have arrived to a consensus on the amount agreed to be paid for settlement of the claim. Under these circumstances, this Authority is of the opinion that it has no much role to play than endorsing the settlement arrived at by the parties.

During the proceedings both the parties have agreed for a sum of Rs. 1,77,68,888/-(Rupees One crore seventy seven lakh sixty eight thousand eight hundred and eighty eight only) towards refund with interest as on 03/06/2022.

Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under.

Interest Calculation Till 30/04/2017 (Before RERA)				
S.NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS TILL 30/04/2017	INTEREST @9%
1	10-05-2014	25,31,905	1086	6,77,995
2	30-11-2015	17,23,728	517	2,19,739
3	29-04-2016	10,00,000	366	90,246
4	29-04-2016	10,00,000	366	90,246
5	13-06-2016	53,006	321	4,195
6	22-09-2016	34,57,109	220	1,87,536
			TOTAL INTEREST ( I )	12,69,957

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Interest Calculation From 01/05/2017 (After RERA)							
S.NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	01-05-2017	97,65,748	1859	03-06-2022	8.15	10.15 as on 01-05-2017	50,48,450
2	31-10-2017	11,49,153	1676	03-06-2022	8.15	10.15 as on 01-10-2017	5,35,580
						TOTAL INTEREST (I2)	55,84,030

**MEMO CALCULATION**

PRINCIPLE AMOUNT ( A )	INTEREST ( B = I1 + I2) AS ON 03-06-2022	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
1,09,14,901	68,53,987	0	1,77,68,888

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/200922/0006643** is hereby allowed. Respondent is directed to pay a sum of Rs.1,77,68,888/- (Rupees One crore seventy seven lakh sixty eight thousand eight hundred and eighty eight only) to the complainant within 60 days from the date of this order. The interest accruing from 04/06/2022 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