

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 1st AUGUST 2022

COMPLAINT NO.:CMP/200309/005668

COMPLAINANT.....

Mrs. ALKA GUPTA

Building Atlanta 2,
Block C1-C-2,
Flat 1101, New Wakad Hinjwadi
Link Road,
Pune-411057.
MAHARASHTRA STATE.

(By Advocates Sri.M. Mohan Kumar,
Sri.H. Santosh of Lawman & Associates)

V/S

RESPONDENT.....

SANCHAYA LAND AND ESTATE PVT LTD

No.479, HMT Layout,
Near R.T.Nagar Bus Depot,
R.T. Nagar,
Bengaluru – 560032.

(By Sri.Sunil P Prasad & 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 "THE GREENS PHASE I" for the relief of interest on delay in handing over the apartment.

Brief facts of the complaint are as under:-

The complainant has booked an apartment under PRE-EMI scheme in the project of respondent in August 2013 at a total cost of Rs.20,00,013/- and entered into an agreement for sale and construction on 11/9/2013. The complainant has

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paid a sum of Rs.16,00,003/- (Rs.4,00,003/- as self contribution and Rs.12,00,000/- through Bank Loan) to the respondent. The respondent had undertaken to deliver the possession of the apartment on or before 31/12/2014 with a six month grace period. The complainant allege that the respondent has stopped the work on construction activities and are not replying to her. The respondent failed to complete the project on time, because of which the complainant had to undergo financial crisis. As per agreement the respondent was under obligation to handover possession on or before 31/12/2018. Due to the delay in completion and handing over possession of the apartment, even after several reminders by the complainant, the respondent has failed to complete the project as agreed. Hence, the respondent is liable to pay the interest on delay period.

After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and has contested the matter by filing statement of objections as under:

The respondent has denied each and every allegation made against it by the complainant as false. It contends that the compensation claimed by the complainant is not as per the provisions of the RERA Act. The respondent also contends that at no point of time it has denied handing over possession by completing the construction, and hence prayed to dismiss the complaint.

In support of her claim, the complainant has produced in all 7 documents such as copies of the Delayed interest calculation sheet, allotment letter, Agreement of sale, Agreement of construction, payment receipts, Triparti Bank Agreement, e mail communication.

Heard arguments.

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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

1. **My answer to point No.1:-** It is undisputed that the respondent has failed to handover possession of the apartment to the complainant herein within agreed time. As per the terms of agreement of sale between the parties, the possession of the apartment had to be handed over before the end of December 2014. Hence, the complainant approached the Authority for interest on delay period.

From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainant has already paid substantial portion of the sale consideration amount. Having accepted the said amount and failure to keep up promise to handover possession of apartment even after more than 7 years, certainly entitles the complainant herein for delay period interest. It is also relevant to note that after putting in appearance, the respondent has contended that he never refused to hand over the possession of the apartment after completion of the project. Having regard to all these aspects, this Authority concludes that the complainant is entitled for interest on delay period.

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

Payment Details			
S.NO.	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	16,00,003	31-12-2014

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 16,00,003						
1	31-12-2014	31-01-2015	31		9	12,230
2	31-01-2015	28-02-2015	28		9	11,046
3	28-02-2015	28-03-2015	28		9	11,046
4	28-03-2015	28-04-2015	31		9	12,230
5	28-04-2015	28-05-2015	30		9	11,835
6	28-05-2015	28-06-2015	31		9	12,230
7	28-06-2015	28-07-2015	30		9	11,835
8	28-07-2015	28-08-2015	31		9	12,230
9	28-08-2015	28-09-2015	31		9	12,230
10	28-09-2015	28-10-2015	30		9	11,835
11	28-10-2015	28-11-2015	31		9	12,230
12	28-11-2015	28-12-2015	30		9	11,835
13	28-12-2015	28-01-2016	31		9	12,230
14	28-01-2016	28-02-2016	31		9	12,230
15	28-02-2016	28-03-2016	29		9	11,441
16	28-03-2016	28-04-2016	31		9	12,230
17	28-04-2016	28-05-2016	30		9	11,835
18	28-05-2016	28-06-2016	31		9	12,230
19	28-06-2016	28-07-2016	30		9	11,835
20	28-07-2016	28-08-2016	31		9	12,230
21	28-08-2016	28-09-2016	31		9	12,230
22	28-09-2016	28-10-2016	30		9	11,835
23	28-10-2016	28-11-2016	31		9	12,230

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24	28-11-2016	28-12-2016	30		9	11,835
25	28-12-2016	28-01-2017	31		9	12,230
26	28-01-2017	28-02-2017	31		9	12,230
27	28-02-2017	28-03-2017	28		9	11,046
28	28-03-2017	28-04-2017	31		9	12,230
29	28-04-2017	28-05-2017	30		9	11,835
30	28-05-2017	28-06-2017	31	8.15	10.15 as on 01-05-2017	13,792
31	28-06-2017	28-07-2017	30	8.15	10.15 as on 01-06-2017	13,347
32	28-07-2017	28-08-2017	31	8.15	10.15 as on 01-07-2017	13,792
33	28-08-2017	28-09-2017	31	8.15	10.15 as on 01-08-2017	13,792
34	28-09-2017	28-10-2017	30	8.15	10.15 as on 01-09-2017	13,347
35	28-10-2017	28-11-2017	31	8.15	10.15 as on 01-10-2017	13,792
36	28-11-2017	28-12-2017	30	8.1	10.1 as on 01-11-2017	13,282
37	28-12-2017	28-01-2018	31	8.1	10.1 as on 01-12-2017	13,724
38	28-01-2018	28-02-2018	31	8.1	10.1 as on 01-01-2018	13,724
39	28-02-2018	28-03-2018	28	8.1	10.1 as on 01-02-2018	12,396
40	28-03-2018	28-04-2018	31	8.35	10.35 as on 01-03-2018	14,064
41	28-04-2018	28-05-2018	30	8.35	10.35 as on 01-04-2018	13,610
42	28-05-2018	28-06-2018	31	8.35	10.35 as on 01-05-2018	14,064
43	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018	13,742
44	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018	14,200
45	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018	14,200
46	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018	14,005
47	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018	14,540

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48	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018	14,071
49	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018	14,608
50	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019	14,608
51	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	13,194
52	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	14,608
53	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	14,071
54	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	14,472
55	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	14,005
56	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	14,404
57	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	14,200
58	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	13,610
59	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	13,928
60	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	13,413
61	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	13,860
62	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	13,860
63	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	12,903
64	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	13,657
65	28-04-2020	28-05-2020	30	7.7	9.7 as on 10-04-2020	12,756
66	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	12,977
67	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	12,230
68	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	12,637

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69	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	12,637
70	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	12,230
71	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	12,637
72	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	12,230
73	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	12,637
74	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	12,637
75	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	11,414
76	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	12,637
77	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	12,230
78	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	12,637
79	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	12,230
80	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	12,637
81	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	12,637
82	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	12,230
83	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	12,637
84	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	12,230
85	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	12,637
86	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	12,637
87	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	11,414
88	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	12,637
89	28-04-2022	28-05-2022	30	7.3	9.3 as on 15-03-2022	12,230

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90	28-05-2022	26-06-2022	29	7.3	9.3 as on 15-03-2022	11,822
					TOTAL DELAYED INTEREST as on 26/06/2022	11,54,163

Accordingly 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.

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.CMP/200309/0005668 is hereby allowed. Respondent is directed to pay the amount of Rs.11,54,163/- (Rupees Eleven Lakh Fifty Four Thousand One Hundred and Sixty Three only) calculated at 9% upto 28/5/2017 and MCLR + 2% from 28/5/2017 till 26/6/2022 to the complainant within 60 days from the date of this order. The interest due from 27/6/2022 up to the date of final payment 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