

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 18th AUGUST 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220116/0008807

COMPLAINANT.....

Mrs SUMITA VEDA

S-202, Wilson Court,
6th Cross, Wilson Garden,
Bengaluru-560027.
(By Sri.N.C. Srinivas, Advocate)

V/S

RESPONDENT.....

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 interest on delay in handing over the apartment.

Brief facts of the complaint are as under:-

The complainant has purchased an apartment in the project of respondent by entering into an agreement of sale and construction agreement dated

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24/7/2019 and 22/4/2015 and has paid Rs.66,83,570/- (till the date of possession). As per agreement the respondent was under obligation to handover possession before end of October 2016 or even with grace period latest by April 2017 with Occupancy certificate. The complainant also contends that she was forced to get the property registered in July 2019 without Completion certificate and Occupancy certificate, thereby causing tremendous loss of interest and happiness in enjoying the property. Though four years have been lapsed, the respondent has failed to complete the project as agreed and to get Occupancy certificate and Completion certificates. Hence, the respondent is liable to pay interest on delay period.

After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its representatives but has not contested the matter by filing objections and producing documents etc.

In support of their claim, the complainant has produced in all 5 documents such as copies of Assignment Agreement, Agreement for sale, Construction agreement, Memo of calculation for interest on delay period (till 12/6/2022) and statement of account from Banks.

Heard arguments of both sides.

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

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REASONS

My answer to point No.1:- It is undisputed that the respondent has failed to handover possession of the apartment along with Completion Certificate and Occupancy Certificate 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 October 2016 or even with grace period latest by April 2017 with Occupancy Certificate and Completion Certificate. When the respondent has failed to handover possession as agreed by them, the complainant approached this forum for interest on delay.

From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainant has already paid the sale consideration amount in toto. Having accepted the said amount and failure to keep up promise to handover possession of apartment with Occupancy certificate and Completion certificate even after 4 years, certainly entitles the complainant herein for delay period interest. It is also relevant to note that in spite of putting in appearance, given enough opportunities and sufficient time of six months by the Authority to submit memo of calculation for delay period interest due to the complainant, the respondent company claims that they have not received the RERA link for calculation and seeking more time on one or the other reasons, amounts nothing but refusal to obey the directions of the Authority. In view of the above, the Authority has taken serious view of the matter as the company is just not sensitive to the plight of the customers. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest.

HWS

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Therefore, it is incumbent upon the respondent to pay amount with interest for the delay period which is determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	66,83,570	31-10-2016

Interest Calculation from 31/10/2016 to 12/06/2022						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 6,683,570						
1	31-10-2016	30-11-2016	30		9	49,440
2	30-11-2016	30-12-2016	30		9	49,440
3	30-12-2016	30-01-2017	31		9	51,088
4	30-01-2017	28-02-2017	29		9	47,792
5	28-02-2017	28-03-2017	28		9	46,144
6	28-03-2017	28-04-2017	31		9	51,088
7	28-04-2017	28-05-2017	30		9	49,440
8	28-05-2017	28-06-2017	31	8.15	10.15 as on 01-05-2017	57,616
9	28-06-2017	28-07-2017	30	8.15	10.15 as on 01-06-2017	55,757
10	28-07-2017	28-08-2017	31	8.15	10.15 as on 01-07-2017	57,616
11	28-08-2017	28-09-2017	31	8.15	10.15 as on 01-08-2017	57,616
12	28-09-2017	28-10-2017	30	8.15	10.15 as on 01-09-2017	55,757
13	28-10-2017	28-11-2017	31	8.15	10.15 as on 01-10-2017	57,616
14	28-11-2017	28-12-2017	30	8.1	10.1 as on 01-11-2017	55,482
15	28-12-2017	28-01-2018	31	8.1	10.1 as on 01-12-2017	57,332
16	28-01-2018	28-02-2018	31	8.1	10.1 as on 01-01-2018	57,332
17	28-02-2018	28-03-2018	28	8.1	10.1 as on 01-02-2018	51,783

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18	28-03-2018	28-04-2018	31	8.35	10.35 as on 01-03-2018	58,751
19	28-04-2018	28-05-2018	30	8.35	10.35 as on 01-04-2018	56,856
20	28-05-2018	28-06-2018	31	8.35	10.35 as on 01-05-2018	58,751
21	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018	57,405
22	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018	59,318
23	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018	59,318
24	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018	58,504
25	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018	60,738
26	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018	58,778
27	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018	61,021
28	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019	61,021
29	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	55,116
30	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	61,021
31	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	58,778
32	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	60,454
33	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	58,504
34	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	60,170
35	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	59,318
36	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	56,856
37	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	58,183
38	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	56,032
39	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	57,899

MS

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40	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	57,899
41	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	53,898
42	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	57,048
43	28-04-2020	28-05-2020	30	7.7	9.7 as on 10-04-2020	53,285
44	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	54,210
45	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	51,088
46	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	52,791
47	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	52,791
48	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	51,088
49	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	52,791
50	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	51,088
51	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	52,791
52	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	52,791
53	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	47,682
54	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	52,791
55	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	51,088
56	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	52,791
57	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	51,088
58	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	52,791
59	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	52,791
60	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	51,088

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61	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	52,791
62	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	51,088
63	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	52,791
64	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	52,791
65	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	47,682
66	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	52,791
67	28-04-2022	28-05-2022	30	7.3	9.3 as on 15-03-2022	51,088
68	28-05-2022	12-06-2022	15	7.3	9.3 as on 15-03-2022	25,544
					TOTAL DELAYED INTEREST as on 12/06/2022	36,93,366

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/220116/0008807** is hereby allowed. Respondent is directed to pay the amount of **Rs.36,93,366/- (Rupees Thirty Six Lakh Ninety Three Thousand Three Hundred and Sixty Six only)** calculated at 9% from 31/10/2016 upto 28/05/2017 and MCLR + 2% from then till 12/6/2022 to the complainant within 60 days from the


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date of this order. The interest due from 13/6/2022 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

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