

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/220116/0008800

COMPLAINANT.....

Mrs RASHMI LUNIA BHURA
S-202, Wilson Court,
6th Cross, Wilson Garden,
Bengaluru-560027.
(In person)

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 and covered parking.

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 20/10/2014 and has paid Rs.66,12,462/- (till the date of possession). As per agreement the respondent was under the obligation to handover possession before

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end of October 2016 with Occupancy certificate. The complainant also submits 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 three 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.

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 Agreement for sale, Tripartite Agreement, Construction agreement, Memo of calculation for interest on delay (as on 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

REASONS

My answer to point No.1:- It is undisputed that the respondent has failed to handover possession of the apartment along with Completion

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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 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 total. Having accepted the said amount and failure to keep up promise to handover possession of apartment with Occupancy certificate and Completion certificate with all the amenities even after 4 years, certainly entitles the complainant herein for interest on delay period. It is also relevant to note here 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 claimed that they have not received the RERA link for calculation and seeking more time on one or the other reasons, amounts to 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 interest on delay period.

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



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Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	66,12,462	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 66,12,462						
1	31-10-2016	30-11-2016	30		9	48,914
2	30-11-2016	30-12-2016	30		9	48,914
3	30-12-2016	30-01-2017	31		9	50,544
4	30-01-2017	28-02-2017	29		9	47,283
5	28-02-2017	28-03-2017	28		9	45,653
6	28-03-2017	28-04-2017	31		9	50,544
7	28-04-2017	28-05-2017	30		9	48,914
8	28-05-2017	28-06-2017	31	8.15	10.15 as on 01-05-2017	57,003
9	28-06-2017	28-07-2017	30	8.15	10.15 as on 01-06-2017	55,164
10	28-07-2017	28-08-2017	31	8.15	10.15 as on 01-07-2017	57,003
11	28-08-2017	28-09-2017	31	8.15	10.15 as on 01-08-2017	57,003
12	28-09-2017	28-10-2017	30	8.15	10.15 as on 01-09-2017	55,164
13	28-10-2017	28-11-2017	31	8.15	10.15 as on 01-10-2017	57,003
14	28-11-2017	28-12-2017	30	8.1	10.1 as on 01-11-2017	54,892
15	28-12-2017	28-01-2018	31	8.1	10.1 as on 01-12-2017	56,722
16	28-01-2018	28-02-2018	31	8.1	10.1 as on 01-01-2018	56,722
17	28-02-2018	28-03-2018	28	8.1	10.1 as on 01-02-2018	51,232

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18	28-03-2018	28-04-2018	31	8.35	10.35 as on 01-03-2018	58,126
19	28-04-2018	28-05-2018	30	8.35	10.35 as on 01-04-2018	56,251
20	28-05-2018	28-06-2018	31	8.35	10.35 as on 01-05-2018	58,126
21	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018	56,794
22	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018	58,687
23	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018	58,687
24	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018	57,881
25	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018	60,091
26	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018	58,153
27	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018	60,372
28	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019	60,372
29	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	54,530
30	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	60,372
31	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	58,153
32	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	59,811
33	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	57,881
34	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	59,530
35	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	58,687
36	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	56,251
37	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	57,564
38	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	55,435

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39	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	57,283
40	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	57,283
41	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	53,325
42	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	56,441
43	28-04-2020	28-05-2020	30	7.7	9.7 as on 10-04-2020	52,718
44	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	53,633
45	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	50,544
46	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	52,229
47	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	52,229
48	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	50,544
49	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	52,229
50	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	50,544
51	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	52,229
52	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	52,229
53	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	47,174
54	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	52,229
55	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	50,544
56	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	52,229
57	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	50,544
58	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	52,229
59	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	52,229

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60	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	50,544
61	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	52,229
62	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	50,544
63	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	52,229
64	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	52,229
65	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	47,174
66	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	52,229
67	28-04-2022	28-05-2022	30	7.3	9.3 as on 15-03-2022	50,544
68	28-05-2022	12-06-2022	15	7.3	9.3 as on 15-03-2022	25,272
					TOTAL DELAYED INTEREST as on 12/06/2022	36,54,060

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/220116/0008800** is hereby allowed. Respondent is directed to pay the amount of **Rs.36,54,060/- (Rupees Thirty Six Lakh Fifty Four Thousand and Sixty only)** calculated at 9% from 31/10/2016 upto 28/05/2017 and MCLR + 2% from then till 12/6/2022 to

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the complainant within 60 days from the 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

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