

**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 2<sup>nd</sup> SEPTEMBER 2022**

**PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU**

**COMPLAINT NO.:CMP/210804/0008210**

**COMPLAINANT**

**:** **MR.K.M. SUNIL  
13, RBD STILL WATER  
APARTMENTS,  
HARALUR ROAD,  
BENGALURU-560102.**

**V/S**

**RESPONDENT**

**:** **MR.BHARAT SUBBA RAO  
D-406, CASA ANSAL APTS,  
BANNERGHATTA MAIN ROAD,  
3<sup>RD</sup> PHASE, J.P. NAGAR,  
BENGALURU-560076.**

**\*\*\*\*\***

**J U D G E M E N T**

1. This complaint is filed under section 31 of the RERA Act against the project "The Green Belt" for the relief of refund with interest and closure of loan with bank.

**BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-**

2. The complainant has booked a plot in the project of respondent and entered into an agreement of sale on 10/2/2019 and has paid an amount of Rs.72,76,761/- (Rupees Seventy Two Lakh Seventy Six Thousand Seven Hundred and Sixty One only) to the respondent till date. The respondent was supposed to hand over the possession with registration of the plot to the complainant by the end of September 2019. The respondent also got a letter of extension by six months signed by the complainant. However, the



# 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

respondent again failed to meet the deadline of March 2020, due to which the complainant is incurring payment of hefty interest every month. The complainant also submits that due to pandemic his income level has fallen down and is unable to pay the interest. Hence requested the respondent to refund the amount with interest in July 2020. Despite assurance by the respondent, till date no cancellation and refund has been made. Hence, this complaint.

3. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its representative and made a written submission vide their letter dated 5/7/2022 stating the reasons for the delay caused by Bangalore Development Authority in releasing residential plots. The respondent contends that the delay has not been caused by them but instead the delay is caused by BDA and that the interest accrued on the working capital borrowed by them for developing the project renders the project economically not feasible. The respondent also submits that they intend to initiate legal action against BDA for recovery of losses due to their delay and that most of the plot purchasers are willing to become parties to the proposed recovery suit. The respondent in their submission have stated that as they are not responsible for the delay in handing over possession and registration of the plot to the complainant and as such, requested not to levy any interest or penalty on them.
4. In support of his claim, the complainant has produced in all 9 documents such as copies of Ledger account of payments made from 1<sup>st</sup> April 2010 to 2<sup>nd</sup> July 2020, Cost breakup letter dtd 4/2/2019 from CITRUS Ventures, Acknowledgements of receipt of money, Statement of account from Piramal Capital & Housing Finance, Memo of Calculation as on 25/6/2022, Agreement for Sale, email correspondence from Citrus Ventures, Whatsapp

**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

record between the complainant and Citrus Ventures & TGB Extension Certificate.

5. Heard arguments of both sides.
6. **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?
7. **My answer to the above points are as under:**
  1. In the Affirmative.
  2. As per final order for the following –

**REASONS**

8. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement for sale to handover the possession of a plot, the builder has not completed the project as per agreement and has delayed the project. The respondent has not handed over the plot in favour of complainant till date. Hence, the builder has failed to abide by the terms of the agreement for sale dated 10/2/2019. There seems to be no possibility of completing the project or handing over the possession in near future.
9. 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 rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.

*Handwritten signature*

# 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

10. 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.
11. 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 to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of the plot, certainly entitles the complainant herein for refund with interest. The complainant has submitted his memo of calculation as on 25/6/2022 claiming a refund of Rs.94,35,148/- (Rupees Ninety Four Lakh Thirty Five Thousand One Hundred and Forty Eight only) including interest. The respondent vide their written submission dated 25/7/2022 have accepted for having received Rs.72,76,761/- as principle amount from the complainant. The respondent have denied complainant's claim of interest stating that they have completed the project in December 2020 and in spite of their best efforts, they have not received 100% release order from the BDA which is required for conveyance/registration of the plot and submit that force majeure clause will be applicable in this case and they are not liable to pay any interest on the part sale value of Rs.72,76,761/- received by the respondent.
12. The complainant has not accepted the timeline given by the Respondent for refund of amount with interest. In view of the above, the Authority concludes that the respondent is delaying refund without any justification, complainant is entitled for refund with interest and upholds the memo of calculation as on 25/6/2022 submitted by the complainant pertaining to refund.



**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

13. 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	10-02-2019	0	-638	0
			TOTAL INTEREST ( I1 )	0

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	0	1881	25-06-2022	8.15	10.15 as on 01-05-2017	0
2	28-01-2019	5,00,000	1244	25-06-2022	8.75	10.75 as on 10-01-2019	1,83,191
3	11-02-2019	2,02,000	1230	25-06-2022	8.75	10.75 as on 10-02-2019	73,176
4	18-02-2019	30,93,201	1223	25-06-2022	8.75	10.75 as on 10-02-2019	11,14,166
5	26-08-2019	6,30,000	1034	25-06-2022	8.45	10.45 as on 10-08-2019	1,86,502
6	11-11-2019	6,21,905	957	25-06-2022	8.2	10.2 as on 10-11-2019	1,66,319
7	30-03-2020	4,63,000	817	25-06-2022	8.05	10.05 as on 10-03-2020	1,04,154
8	27-05-2020	3,00,000	759	25-06-2022	7.55	9.55 as on 10-05-2020	59,576
9	29-06-2020	14,66,655	726	25-06-2022	7.3	9.3 as on 10-06-2020	2,71,303
10	TOTAL AMOUNT	72,76,761				TOTAL INTEREST ( I2 )	21,58,387

*Handwritten signature*

# 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


Memo Calculation			
PRINCIPLE AMOUNT ( A )	INTEREST ( B = I1 + I2 ) AS ON 25-06-2022	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
72,76,761	21,58,387	0	94,35,148

14. Accordingly the point raised above is answered in the Affirmative.

15. 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/210804/0008210** is hereby allowed. Respondent is directed to pay a sum of **Rs.94,35,148/- (Rupees Ninety Four Lakh Thirty Five Thousand One Hundred and Forty Eight only)** towards refund with interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 01/05/2017 till 31/7/2022. The interest due from 1/8/2022 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