

**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 29<sup>th</sup> AUGUST 2022**

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

**COMPLAINT NO.: CMP/220525/0009526**

**COMPLAINANT.....**

**MRS. AISHWARYA JAYANTH**  
No.7, 7<sup>th</sup> Cross, Lakshmi Road,  
Shanthinagar,  
Bengaluru-560027.

**Vs**

**RESPONDENT.....**

**Ozone Urbana Infra Developers Pvt Ltd**  
No.38 Ulsoor Road  
Bengaluru-560042.

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

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

1. This complaint is filed under section 31 of the RERA Act against the project "Ozone Urbana Pavilion" 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 purchased an apartment in the project of respondent and entered into an agreement of sale and construction agreement on 30/04/2014 and has paid an amount of Rs.56,32,581/- (Rupees Fifty Six Lakh Thirty Two Thousand Five Hundred and Eighty only) to the respondent till date. The respondent was supposed to hand over the possession of the flat to the complainant by the end of April 2017 including the grace period of six months. Despite several requests the respondent has failed to handover the possession of the said Unit. Hence, this complaint.

# 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

3. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its representative. But it has not contested the matter either by filing statement of objections or producing documents on its behalf. But have filed a memo of calculation as on 31/7/2022.
4. In support of her claim, the complainant has produced in all 5 documents such as copies of Construction Agreement, Allotment letter, Ozone Demand letter, Payment receipts and memo of calculation for refund with interest dated 02/07/2022.
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 an apartment, the builder has not completed the project as per agreement and has delayed the project, and has not handed over the unit in favour of complainant till date. Hence, the builder has failed to abide by the terms of the agreement for sale and construction agreement

M/S

# 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

dated 30/04/2014. 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.
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. Having accepted the said amount and failure to keep up promise to handover possession of apartment certainly entitles the complainant herein for refund with interest. In her memo of calculation as on 2/7/2022 the complainant has claimed that she has to receive a refund of Rs.96,01,053/- including interest from the respondent. The respondent submitted its memo of calculation as on 31/7/2022 and has admitted that they have to refund an amount of Rs.96,49,651/- as on 31/7/2022. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest.
12. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under –

*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 submitted by Respondent as on 31/7/2022			
PRINCIPLE AMOUNT ( A )	INTEREST AS ON 31-07-2022 (B)	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
56,32,581	40,17,070	0	96,49,651

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

14. **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/220525/0009526** is hereby allowed. Respondent is directed to pay a sum of **Rs.96,49,651/- (Rupees Ninety Six Lakh Forty Nine Thousand Six Hundred and Fifty One only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated at 9% from 10/02/2014 to 30/04/2017 and MCLR + 2% from 01/05/2017 till 31/07/2022. The interest due from 01/08/2022 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