

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 5th SEPTEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/201115/0007046

COMPLAINANT.....

**Mr. Basawaraj Yallappa Hongal &
Mrs.Shailashree Basawaraj Hongal**
741, Kalavathi Ramtirth Nagar,
Kanabaragi Road,
Belgaum-590016.

(By Sri.M.Mohan Kumar, Advocate
M/s Lawman and Associates)

V/S

RESPONDENT.....

**Mantri Technology Constellations
Pvt. Ltd. Currently known as
Buoyant Technology Constellations
Pvt. Ltd.**

Mantri House,
No.41, Vittal Mallya Road,
Bengaluru-560001.

(By Sri.S. Sushant Venkatesh Pai,
Advocate M/s Iyengar & Pai Advocates)

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "Mantri Manyata Energia" for the relief of interest on delay in handing over the apartment and compensation for mental agony.

Brief facts of the complaint are as under:-

2. The complainant has booked an apartment in the project of respondent by entering into an agreement of sale and construction dated 01/01/2016 and has paid an amount of Rs.83,67,367/- (Rupees Eighty Three Lakh Sixty

HLW

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

Seven Thousand Three Hundred and Sixty Seven only) (till the date of possession). As per agreement the respondent was under obligation to handover possession before end of 31/12/2018. Though more than three years have been lapsed, the respondent has failed to complete the project as agreed. The respondent has simply kept postponing the date of possession and has defaulted on terms and conditions, due to which as a buyer, the complainant has suffered monetary losses and put into lot of financial hardship, mental harassment and agony. Hence, the respondent is liable to pay interest on delay period.

3. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and have contested the matter by filing statement of objections on its behalf. The Respondent contends that the complainant is not entitled for seeking relief sought in light of Clause 6.4 of the Agreement of Construction dated 30/1/2016 and the project has not been completed within stipulated time due to force majeure events such as, labour strike, non-availability of steel, sand, cement and such other vital building materials, demonetization, implementation of GST or such reasons beyond the control of the respondent, and the respondent cannot be held liable to compensate the complainant under section 18(1) of RERA Act. In addition COVID-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondent. The respondent contends that there is no wilful delay or default by the respondent in handing over the possession of the apartment to the complainant and continues to remain committed to delivering the possession to its customers. The complainant has not made any ground justifying his claim for compensation. The respondent denies the allegations of the complainant as false, baseless and frivolous and has prayed to dismiss the complaint in the interest of justice and equity.

4/12/20

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

4. In support of their claim, the complainant has produced in all 5 documents such as copies of Agreement for Sale, Construction agreement, Statement of Account issued by Buoyant Technology Constellations Pvt Ltd., Payment receipt, and Memo of calculation for interest on delay period as on 12/8/2022.
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:-** 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 2018. When the respondent has failed to handover possession as agreed by them, the complainant approached this forum for interest on delay.
9. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainant has already paid an amount of Rs.83,67,367/- to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of apartment even after 3 years, certainly entitles the complainant herein for delay period interest. 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

complainant has claimed Rs.29,53,997/- (Rupees Twenty Nine Lakh Fifty Three Thousand Nine Hundred and Ninety Seven only) as delay period interest in his memo of calculation as on 12/8/2022. The respondent has not filed their memo of calculation despite several opportunities given to them. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest.

10. Further, the complainant has sought compensation for mental agony which does not come under the jurisdiction of this Authority and hence, same cannot be considered.

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

Payment Details		
TYPE	AMOUNT	DATE
TOTAL PAYMENT TILL POSSESSION	83,67,367	31-12-2018

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 83,67,367/-						
1	31-12-2018	31-01-2019	31	8.75	10.75 as on 10-12-2018	76,395
2	31-12-2018	31-01-2019	31	8.75	10.75 as on 10-12-2018	76,395
3	31-01-2019	28-02-2019	28	8.75	10.75 as on 10-01-2019	69,002
4	31-01-2019	28-02-2019	28	8.75	10.75 as on 10-01-2019	69,002
5	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	69,002
6	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	69,002
7	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	76,395
8	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	76,395

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

9	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	73,586
10	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	73,586
11	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	75,684
12	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	75,684
13	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	73,243
14	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	73,243
15	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	75,329
16	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	75,329
17	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	74,263
18	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	74,263
19	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	71,179
20	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	71,179
21	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	72,841
22	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	72,841
23	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	70,148
24	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	70,148
25	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	72,486
26	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	72,486
27	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	72,486
28	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	72,486
29	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	67,477

Handwritten signature/initials

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

30	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	67,477
31	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	71,420
32	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	71,420
33	28-04-2020	28-05-2020	30	7.7	9.7 as on 10- 04-2020	66,709
34	28-04-2020	28-05-2020	30	7.7	9.7 as on 10- 04-2020	66,709
35	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	67,867
36	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	67,867
37	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	63,958
38	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	63,958
39	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	66,090
40	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	66,090
41	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	66,090
42	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	66,090
43	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	63,958
44	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	63,958
45	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	66,090
46	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	66,090
47	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	63,958
48	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	63,958
49	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	66,090
50	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	66,090

HL

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

51	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	66,090
52	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	66,090
53	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	59,694
54	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	59,694
55	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	66,090
56	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	66,090
57	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	63,958
58	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	63,958
59	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	66,090
60	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	66,090
61	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	63,958
62	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	63,958
63	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	66,090
64	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	66,090
65	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	66,090
66	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	66,090
67	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	63,958
68	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	63,958
69	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	66,090
70	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	66,090

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

71	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	63,958
72	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	63,958
73	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	66,090
74	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	66,090
75	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	66,090
76	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	66,090
77	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	59,694
78	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	59,694
79	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	66,090
80	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	66,090
81	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	64,646
82	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	64,646
83	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	67,512
84	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	67,512
85	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	66,709
86	28-06-2022	16-07-2022	18	7.7	9.7 as on 15-06-2022	40,025
87	28-07-2022	12-08-2022	15	7.7	9.7 as on 15-06-2022	33,354
					TOTAL DELAYED INTEREST as on 12/08/2022	29,53,997

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

13. **My answer to point No. 2:-** In view of the above discussion, I proceed to pass the following order:

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

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing **No.CMP/201115/0007046** is hereby allowed. Respondent is directed to pay the amount of **Rs.29,53,997/- (Rupees Twenty Nine Lakh Fifty Three Thousand Nine Hundred and Ninety Seven only)** calculated at MCLR + 2% from 31/12/2018 till 12/8/2022 to the complainant within 60 days from the date of this order. The interest due from 13/8/2022 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

NOT AN OFFICIAL COPY