

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 6th SEPTEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/201027/0006721

COMPLAINANT.....

Mrs. Shanthi Chandrababu

F1 No.101, Sundher Residency,
12th Cross, Byrasandra Main Road,
GM Palya,
Bangalore-560075.

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

V/S

RESPONDENTS.....

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

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

2. Gokulam Shelters Private Limited

Gokulam Complex, 8th Mile,
Doddakallasandra Post,
Vasanthapura Village,
Kanakapura Main Road,
Bangalore-560062.

(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.

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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 28/1/2019 and has paid an amount of Rs.75,88,519/- (Rupees Seventy Five Lakh Eighty Eight Thousand Five Hundred and Nineteen only) (till the date of possession). As per agreement the respondent was under obligation to handover possession before end of 31/12/2019 with a grace period of 12 months i.e. by the end of 31/12/2020. Though more than two years have been lapsed, the respondent has failed to complete the project and deliver the possession of flat on time. 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. The complainant also submits that the conduct of the respondent has caused her immense mental pain 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 filed statement of objections as under:
4. 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 28/1/2019 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

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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.

5. In support of her claim, the complainant has produced in all 5 documents such as copies of Agreement for Sale, Construction agreement, Cost Sheet, Payment receipts, Bank Statements and Memo of calculation for interest on delay period as on 16/7/2022.

6. Heard arguments of both sides.

7. **On the above averments, the following points would arise for my consideration:-**

- a. Whether the complainant is entitled for the relief claimed?
- b. What order?

8. **My answer to the above points are as under:-**

1. In the Affirmative.
2. As per final order for the following

REASONS

9. **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

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the end of December 2019 with a grace period of 12 months i.e. end of December 2020. When the respondent has failed to handover possession as agreed by them, the complainant approached this forum for interest on delay.

10. 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.75,88,519/- to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of apartment even after 2 years, certainly entitles the complainant herein for delay period interest. The complainant has claimed Rs.18,22,983/- (Rupees Eighteen Lakh Twenty Two Thousand Nine Hundred and Eighty Three only) as delay period interest in his memo of calculation as on 16/7/2022. The respondent has not filed their memo of calculation despite several opportunities given to them. During the process of the hearing the respondent contended that though the date of hand over of possession was by the end of December 2019, it was mentioned in the agreement of sale and construction that there will be a grace period of 12 months for handing over the possession of the flat i.e. by the end of December 2020. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest of Rs.10,87,828/- from 01/01/2021 to 16/7/2022 and later on.

11. 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.

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

14/5/22

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Payment Details		
TYPE	AMOUNT	DATE
TOTAL PAYMENT TILL POSSESSION	75,88,519	31-12-2019

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 75,88,519/-						
1	01-01-2021	01-02-2021	31	7.3	9.3 as on 10-12-2020	59,938
2	01-02-2021	01-03-2021	28	7.3	9.3 as on 10-01-2021	54,138
3	01-03-2021	01-04-2021	31	7.3	9.3 as on 10-02-2021	59,938
4	01-04-2021	01-05-2021	30	7.3	9.3 as on 10-03-2021	58,005
5	01-05-2021	01-06-2021	31	7.3	9.3 as on 10-04-2021	59,938
6	01-06-2021	01-07-2021	30	7.3	9.3 as on 15-05-2021	58,005
7	01-07-2021	01-08-2021	31	7.3	9.3 as on 15-06-2021	59,938
8	01-08-2021	01-09-2021	31	7.3	9.3 as on 15-07-2021	59,938
9	01-09-2021	01-10-2021	30	7.3	9.3 as on 15-08-2021	58,005
10	01-10-2021	01-11-2021	31	7.3	9.3 as on 15-09-2021	59,938
11	01-11-2021	01-12-2021	30	7.3	9.3 as on 15-10-2021	58,005
12	01-12-2021	01-01-2022	31	7.3	9.3 as on 15-11-2021	59,938
13	01-01-2022	01-02-2022	31	7.3	9.3 as on 15-12-2021	59,938
14	01-02-2022	01-03-2022	28	7.3	9.3 as on 15-01-2022	54,138
15	01-03-2022	01-04-2022	31	7.3	9.3 as on 15-02-2022	59,938
16	01-04-2022	01-05-2022	30	7.3	9.3 as on 15-03-2022	58,005

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17	01-05-2022	01-06-2022	31	7.4	9.4 as on 15-04-2022	60,583
18	01-06-2022	01-07-2022	30	7.5	9.5 as on 15-05-2022	59,252
19	01-07-2022	16-07-2022	15	7.7	9.7 as on 15-06-2022	30,250
					TOTAL DELAYED INTEREST AS ON 16/7/2022	10,87,828

1. Accordingly point raised above is answered in the Affirmative.
2. **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/201027/0006721** is hereby allowed. Respondent is directed to pay the amount of **Rs.10,87,828/- (Rupees Ten Lakh Eighty Seven Thousand Eight Hundred and Twenty Eight only)** calculated at MCLR + 2% from 01/01/2021 till 16/7/2022 to the complainant within 60 days from the date of this order. The interest due from 17/7/2022 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, KRERA