

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-4

Dated 28th September 2022

Present

Shri. H.C. Kishore Chandra, Chairman

Complaint No.	CMP/201028/0006936
Complainants	Radhika Ravi No: 2, Vivekananda Road Yadavagiri Mysore.560 040 (represented by Sri.M. Mohan Kumar Advocate)
Respondent	Mantri Castles Private Limited Mantri House #41, Vittal Malya Road Bengaluru-560 001. (represented by Sri. E.Suhail Ahmed. Advocate)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act, against the project **'Mantri Serenity-4'** developed by **'Mantri Castles Private Limited'** in the limits of Kanakapura Road, 1.7 Kms from Metro Cash and Carry, Bangalore Urban for the relief of interest on delay period.

2. This project has been registered under RERA bearing registration no. PRM/KA/RERA/1251/310/PR/ 171016/000502

3. The brief facts of the complaint is as under:-

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

(a) The complainant had booked a flat bearing no. : I-12701 situated in tower-1, 27th floor in the project "**Mantri Serenity Block-4**" of the respondent. The complainant entered into an agreement of sale and construction both dated 15.01.2013 with the respondent to purchase the apartment No.12701 by paying total sale consideration of Rs.65,69,066/-. The respondent is obligated to hand over the possession of the apartment by 31.12.2015 as per agreement of sale and construction dated 25.02.2013. It is submitted that the respondent offered to pay interest as per PRE-EMI scheme, until possession to the complainant. It is further claimed by the complainant that the respondent failed to pay interest regularly as such issued credit note for a sum of Rs.2,29,681/- and assured to pay the same during November 2017 to March 2018. But, however, the respondent failed to pay even the said arrears of interest/Pre-EMI.

(b) It is submitted that, in the year 2017, the respondent has informed the complainant that they are ready to register the apartment as per the revision rates and instructed the complainant to get her sale deed executed accordingly. It contends that the respondent has executed a sale deed in favour of her on 24.04.2017.

(c) It is claimed by the complainant that in spite of making substantial sale consideration, the respondent has failed to complete the project on time and deliver possession of flat on time and as such the complainant was suffering financially by paying huge sum of money towards overall cost of the apartment.

118

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

(d) It is further contended by the complainant that due to delay in completion and handing over of the apartment, the complainant is put into immense mental pain and agony and as such entitled for compensation and damages as per various provisions of RERA Act. Hence this complaint.

4. The complainant has sought following relief from the respondent viz: (a) completion and handing over the possession of the apartment with occupancy certificate with all amenities (b) grant of delayed compensation from 31.12.2015 until handing over the possession of the apartment (c) to pay outstanding pre-EMI instalment along with interest (d) to pay a sum of Rs.25,000/- per month towards the cost of rent expenses (f) to refund car parking charges (g) to provide the excess receipts of the service tax, VAT and GST (h) compensation for mental agony and damages to an extent of Rs.5,00,000/- and cost of litigation.

5. After registration of the complaint, in pursuance to service of notice, the respondent-1 appeared before this Authority through its counsel Sri. E. Suhail Ahmed and filed written submissions as under:

6. The respondent denies the entire allegations made against them by the complainant as false.

7. It is submitted that the respondent has formulated a scheme for the construction of a residential apartment building complex with common entrance, lobby, staircases, passages, gardens, lifts etc., together with common amenities and facilities under the name and style of "Mantri Serenity-4" for buyers interested in owning an apartment.

8. It is submitted that according to the scheme, a person interested in acquiring residential apartment in the said project, required to join the

198

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

scheme formulated by the respondent-1 and purchase an undivided right, title and interest in the project land proportionate to the saleable area of the apartment to be constructed simultaneously by entering into a construction agreement in accordance with the approved plans sanctioned by the competent authority.

9. It is submitted that complainants herein desirous of getting a residential apartment in the project constructed by respondent-1 have entered into an agreement of sale and construction both dated 11.01.2013 to construct and own an apartment unit bearing No: I-12701 situated in tower-1, 27th floor of Mantri Serenity as per agreement of construction.

10. It is submitted that, as per the agreement of sale of undivided share of land, the total land cost is Rs.32,69,750/- and cost of construction is Rs.21,45,000/- to be paid to the respondent by the complainants. As such the total basic cost of land and construction of the said flat is Rs.54,14,750/-

11. It is submitted that the respondent-1 obtained registration of the project in multiple phases and the towers where the complainant apartment is situated has come to be registered as "Mantri Serenity-4" being an ongoing project as on date of the commencement of the RERA Act. Further the Hon'ble Authority granted a covid extension certificate to the project and the revised end date of the project as on date stands to be 29.10.2021.

12. It is submitted that as per the construction agreement, the respondent is obligated to hand over the possession of the said apartment to the complainant on 31.12.2016 subject to receipt of Occupancy Certificate from competent authority and subject to receipt of all the payments and the limitations set out in the said agreement.

668

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. It is submitted that the construction of the flat in so far as the complainant was concerned went on as scheduled, but because of force majeure reasons such as demonetization, shortage of supply of building materials, sand, lorry owners strike and act of god, the he could not complete the project as agreed. The respondent further claimed that in view of the above averments he cannot be made amiable for delay in relation to the acts coming under the purview vis- Majeure and Force- Majeure. Hence, the respondent has prayed to dismiss the complaint filed by the complainant in the interest of justice and equity.

14. In support of her claim, the complainant has produced documents such as (a) sale agreement (b) construction agreement (c) cost break up (d) payment receipt (e) sale deed (f) credit note

15. In support of defence, the respondent-1 has not produced any documents.

16. Heard both the parties.

17. On the above averments, the following points would arise for my consideration.

18. 1. Whether the complainants are entitled to the relief claimed?
2. What order?

19. My findings on the above points are as under:

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

20. My findings on point no.1:

The grievance of the complaint is that the respondent ought to have hand over the possession of flat bearing no. I-12701 by 31/12/2015 as per date of agreement of sale dated 11/0/2013 subject to receiving of occupancy

chud

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

certificate from competent authorities and subject to receipt of all the payments.

It may be noted that the respondent-1 was granted extension of the original registration under section 6 of the RERA on account of existence of reasonable circumstances affecting the development works to complete the same. Further, Hon'ble Authority has granted a covid extension certificate to the project and the revised end date of the project as on date stands to be 29.10.2021.

It is apparent that the respondent-1 has encountered certain unforeseen difficulties in its endeavour to deliver possession of the completed unit along with amenities in the project "Mantri Serenity 4" such as (a) legal and licensing issues (b) continuous rainfall during monsoon season affected construction work in the years 2015-2018 (c) demonitization (d) implementation of GST in July, 2017 (d) Hon'ble High Court order imposing restrictions on the working hours of construction by the builders (e) curb on sand mining, strike by the sand suppliers (f) Covid-19 pandemic and the consequent lockdowns also led to inevitable delays in the progression and completion of the project.

It is evident that the respondent has executed a Deed of Sale in favour of the complainant on 20/04/2017, which was registered as document no.448 in the office of the Registrar, Bommanahalli, Bangalore District. Having taken all the aspects into consideration, the complaint certainly entitles for interest in delay period commencing from 31.12.2015 till the date of execution of Deed of sale on 20/04/2017 calculated at the rate of 9% from 31.12.2015 till 30.4.2017. Accordingly, the point above is answered in Affirmative.

21. **My finding to point no.2:** In view of the above discussion, I proceed to pass the following order:

6/3/8

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 powers conferred under section 18 of the Real Estate (Regulation and Development) Act, 2016 the complaint bearing No. **CMP/201028/0006936** filed under section 31 of the Act, is hereby allowed.

2. The respondent is hereby directed to pay interest on delay period commencing from 31.12.2015 till the date of execution of Deed of sale on 20/04/2017 calculated at the rate of 9% from 31.12.2015 till 30.4.2017.

3. The respondent shall pay the above amount within 60 days from the date of this order, failing which, the complainant is at liberty to enforce this order in accordance with law.

No order as to costs.



(H.C. Kishore Chandra)

Chairman

K-RERA

NOT AN OFFICIAL COPY