

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 23RD SEPTEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/211201/0008655

COMPLAINANT.....

Mrs. Alka Saksena
Prestige Royale Garden
Flat No.10133
Doddaballapura Road
Avalahalli, Yelahanka
Bengaluru-560064.

V/S

RESPONDENT.....

Sanchaya Land and Estate Pvt Ltd
482, 2nd Floor, 80 Feet Road,
HMT Layout, near RT Nagar,
Bengaluru-560032.

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "Sky View" for the relief of refund with interest.

Brief facts of the complaint are as under:-

2. The complainant has booked a flat in the project of respondent and entered into an agreement of sale and construction dated 02/04/2016 by paying an amount of Rs.20,33,650/- (Rupees Twenty Lakh Thirty Three Thousand Six Hundred and Fifty only) on various dates to the respondent. The respondent had assured the complainant that the flat will be handed over by the end of September 2016. The completion date of the project was



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31/12/2017 with a grace period of six months i.e. by 30/6/2018. Despite which the respondent has failed to handover the possession of the said Unit and refund the amount with interest till date. Hence, this complaint.

3. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its representative, despite which the respondent has not contested the matter by filing statement of objections nor producing documents on its behalf.
4. In support of her claim, the complainant has produced in all 5 documents such as copies of Agreement of Sale, Agreement of Construction, Allotment letter, Payment receipts and memo of calculation for refund with interest as on 27/06/2022.

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

HWS

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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 dated 02/04/2016. 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 paid the sale consideration amount. Having accepted the said amount and failing to keep up promise to handover possession of apartment, certainly entitles the complainant herein for refund with interest. The complainant vide his memo of calculation as on 27/06/2022 has claimed that the respondent has to refund with interest an amount of Rs.31,70,991/-. During the process of the hearing on 10/8/2022, the representative of the respondent promised to refund the money in two days time for which the complainant agreed. The respondent did not keep up his promise to refund the money. There is no cooperation or response from the respondent. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest.



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12. 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	20-03-2016	3,00,000	406	30,032
2	30-03-2016	3,00,000	396	29,293
3	08-06-2016	4,50,000	326	36,172
4	17-04-2017	3,00,000	13	961
5			TOTAL INTEREST (I1)	96,458

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	13,50,000	1883	27-06-2022	8.15	10.15 as on 01-05-2017	7,06,898
2	16-05-2017	1,50,000	1868	27-06-2022	8.15	10.15 as on 01-05-2017	77,918
3	30-06-2017	1,50,000	1823	27-06-2022	8.15	10.15 as on 01-06-2017	76,041
4	07-09-2017	1,49,903	1754	27-06-2022	8.15	10.15 as on 01-09-2017	73,116
5	07-11-2017	1,10,431	1693	27-06-2022	8.1	10.1 as on 01-11-2017	51,734
6	22-01-2018	1,23,316	1617	27-06-2022	8.1	10.1 as on 01-01-2018	55,176
7	TOTAL AMOUNT	20,33,650				TOTAL INTEREST (I2)	10,40,883

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Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2) AS ON 27-06-2022	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
20,33,650	11,37,341	0	31,70,991

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/211201/0008655** is hereby allowed. Respondent is directed to pay a sum of **Rs.31,70,991/- (Rupees Thirty One Lakh Seventy Thousand Nine Hundred and Ninety One only)** calculated at 9% from 20/03/2016 to 30/4/2017 and at MCLR + 2% from 01/05/2017 till 27/06/2022 towards refund with interest to the complainant, within 60 days from the date of this order. The interest due from 28/06/2022 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

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