

**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 30<sup>TH</sup> SEPTEMBER 2022**

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

**COMPLAINT NO.: CMP/210304/0007748**

**COMPLAINANT.....**

**MR. SHREENIWAS JADAL  
108/3251, PANTNAGAR  
GHATKOPAR EAST  
MUMBAI CITY-400075  
STATE: MAHARASHTRA**

**(BY SRI.AKASH R BANTIA, ADVOCATE)**

**V/S**

**RESPONDENT.....**

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

**(By Mr.Deepak Bhaskar & Associates,  
Advocates)**

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

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

**Brief facts of the complaint are as under:-**

1. The complainant has booked an apartment in the project "Ozone Urbana" of the respondent and entered into an agreement of sale under a buyback/subvention scheme on 04/07/2016 and had paid an amount of Rs.57,17,932/- to the respondent (Rupees Fifty Seven Lakh Seventeen Thousand Nine Hundred and Thirty Two only) (including loan from Bank) to

# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

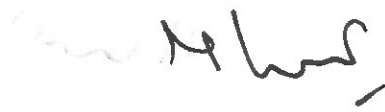
## Karnataka Real Estate Regulatory Authority,

# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

the respondent till date. At the time of agreement, the respondent had agreed to pay pre-EMIs till the date of possession. As per the agreement dated 01/09/2016, the respondent was supposed to hand over the possession of the flat by the end of March 2019. As the complainant opted for buyback, the respondent has paid back the buyback amount to the complainant. However, the respondent did not close or terminated the loan as agreed in the agreement citing financial crunch. The complainant further adds that the respondent asked for extension of two years to close the loan and executed another agreement dated 6/7/2019, despite which the respondent failed to close the loan and has also stopped paying pre-EMIs to Bank, putting more financial burden on the complainant. Hence, this complaint.

2. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel. But it has not contested the matter by filing statement of objections, producing documents on its behalf, but have filed memo of calculation as on 20/06/2022.
3. In support of his claim, the complainant has produced in all 6 documents such as copies of Payment receipt, Sanction letter, initial buyback agreement by Ozone, extension agreement by Ozone, PEMI deferment request by Ozone, Loan Sanction letter from Indiabulls.
4. Heard arguments of both sides.
5. **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?



**ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,**

**Karnataka Real Estate Regulatory Authority,**

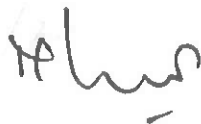
# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

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

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

**REASONS**

7. **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 the apartment and agreeing to pay the pre-EMIs to the Bank till the possession of the flat is handed over to the complainant, the builder has stopped paying pre-EMIs to the Bank and not closed or terminated the loan account. Hence, the builder has failed to abide by the terms of the agreement dated 01/09/2016 and 06/07/2019. There seems to be no possibility of completing the project or handing over the possession in near future.
8. 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.
9. 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.
10. 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 not paying pre-EMIs to the Bank, certainly entitles the complainant herein for refund



# 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

with interest. The Respondent has submitted his memo of calculation as on 20/06/2022 claiming an amount of Rs.57,10,606/- as refund including interest. During the process of the hearing, the complainant's counsel agreed with the amount claimed by the Respondent in their memo of calculation as on 20/06/2022. Having regard to these aspects, the Authority concludes that the complainant is entitled for refund of an amount of Rs.57,10,606/- including interest as claimed by the Respondent in their memo of calculation as on 20/6/2022.

11. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under –

Respondent Memo of Calculation as on 20/06/2022			
PRINCIPLE AMOUNT ( A )	INTEREST ( B ) AS ON 20-06-2022	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
57,17,932	24,23,414	24,30,740	57,10,606

12. Accordingly the 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


In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/210304/0007748** is hereby allowed. Respondent is directed to pay a sum of **Rs.57,10,606/- (Rupees Fifty Seven Lakh Ten Thousand Six Hundred and Six only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated at 9%

**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

from 21/06/2016 to 30/04/2017 and MCLR + 2% from 01/05/2017 till 20/06/2022 to the complainant within 60 days from the date of this order. The interest due from 21/06/2022 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, KREERA

NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY