

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 3rd OCTOBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.:CMP/200930/0006731

COMPLAINANT.....

**MR. RAJESH VERMA
12/5-1, 'SAI SAMARTH'
8TH MAIN, CK STREET
PALACE GUTTAHALLI
BENGALURU-560003.**

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

1. This complaint is filed under section 31 of the RERA Act against the project "URBANA PAVILION" for the relief of interest on delay in handing over the apartment.

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 31/12/2015 and has paid an amount of Rs.77,18,993/- (Rupees Seventy Seven Lakh



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Eighteen Thousand Nine Hundred and Ninety Three only) (till the date of possession). As per agreement the respondent was under obligation to handover possession before end of October 2016 with a grace period of six months. Though more than four years have been lapsed, the respondent has failed to handover the possession of flat on time and complete registration process. The complainant also submits that Occupancy Certificate has not been obtained by the Builder. The Loan has been fully repaid by the Complainant to the Bank. 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. But have not contested the matter by filing statement of objections, producing documents on its behalf. The respondent has filed their memo of calculation as on 20/6/2022.
4. In support of his claim, the complainant has produced in all 5 documents such as copies of Agreement for Sale, Construction agreement, Payment receipts, Allotment letter from Ozone, Loan closure certificate issued by HDFC dated 01/10/2018, No outstanding dues email from Ozone and Memo of calculation for interest on delay period as on 06/06/2022.
5. Heard arguments of both sides.
6. **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?

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

1. In the Affirmative.



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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 and construction between the parties, the possession of the apartment had to be handed over before the end of October 2016 with a grace period of 6 months. 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 copies of the agreement between the parties, it is obvious that complainant has already paid an amount of Rs.77,18,993/- to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of apartment even after 4 years, certainly entitles the complainant herein for delay period interest. The complainant has claimed Rs.43,21,529/- (Rupees Forty Three Lakh Twenty One Thousand Five Hundred and Twenty Nine only) as delay period interest in his memo of calculation as on 06/06/2022. The respondent has filed his memo of calculation as on 20/06/2022 submitting that the amount to be given as delay period interest is Rs.42,25,861/-. During the process of the hearing both the parties were advised to reconcile the interest amount to be paid. The respondent was unable to reconcile the amount. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest of Rs.43,21,529/- from 01/10/2016 to 06/06/2022 and later on.
10. Therefore, it is incumbent upon the respondent to pay interest for the principle amount for the delay period which is determined as under:

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Payment Details		
TYPE	AMOUNT	DATE
TOTAL PAYMENT TILL POSSESSION	77,18,993	01-10-2016

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 77,18,993						
1	01-10-2016	01-11-2016	31		9	59,002
2	01-11-2016	01-12-2016	30		9	57,099
3	01-12-2016	01-01-2017	31		9	59,002
4	01-01-2017	01-02-2017	31		9	59,002
5	01-02-2017	01-03-2017	28		9	53,292
6	01-03-2017	01-04-2017	31		9	59,002
7	01-04-2017	01-05-2017	30		9	57,099
8	01-05-2017	01-06-2017	31	8.15	10.15 as on 01-05-2017	66,541
9	01-06-2017	01-07-2017	30	8.15	10.15 as on 01-06-2017	64,395
10	01-07-2017	01-08-2017	31	8.15	10.15 as on 01-07-2017	66,541
11	01-08-2017	01-09-2017	31	8.15	10.15 as on 01-08-2017	66,541
12	01-09-2017	01-10-2017	30	8.15	10.15 as on 01-09-2017	64,395
13	01-10-2017	01-11-2017	31	8.15	10.15 as on 01-10-2017	66,541
14	01-11-2017	01-12-2017	30	8.1	10.1 as on 01-11-2017	64,078
15	01-12-2017	01-01-2018	31	8.1	10.1 as on 01-12-2017	66,214

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16	01-01-2018	01-02-2018	31	8.1	10.1 as on 01-01-2018	66,214
17	01-02-2018	01-03-2018	28	8.1	10.1 as on 01-02-2018	59,806
18	01-03-2018	01-04-2018	31	8.35	10.35 as on 01-03-2018	67,853
19	01-04-2018	01-05-2018	30	8.35	10.35 as on 01-04-2018	65,664
20	01-05-2018	01-06-2018	31	8.35	10.35 as on 01-05-2018	67,853
21	01-06-2018	01-07-2018	30	8.45	10.45 as on 01-06-2018	66,298
22	01-07-2018	01-08-2018	31	8.45	10.45 as on 01-07-2018	68,508
23	01-08-2018	01-09-2018	31	8.45	10.45 as on 01-08-2018	68,508
24	01-09-2018	01-10-2018	30	8.65	10.65 as on 01-09-2018	67,567
25	01-10-2018	01-11-2018	31	8.7	10.7 as on 01-10-2018	70,147
26	01-11-2018	01-12-2018	30	8.7	10.7 as on 01-11-2018	67,884
27	01-12-2018	01-01-2019	31	8.7	10.7 as on 01-11-2018	70,147
28	01-01-2019	01-02-2019	31	8.75	10.75 as on 10-12-2018	70,475
29	01-02-2019	01-03-2019	28	8.75	10.75 as on 10-01-2019	63,655
30	01-03-2019	01-04-2019	31	8.75	10.75 as on 10-02-2019	70,475

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31	01-04-2019	01-05-2019	30	8.75	10.75 as on 10-03-2019	68,202
32	01-05-2019	01-06-2019	31	8.7	10.7 as on 10-04-2019	70,147
33	01-06-2019	01-07-2019	30	8.65	10.65 as on 10-05-2019	67,567
34	01-07-2019	01-08-2019	31	8.65	10.65 as on 10-06-2019	69,819
35	01-08-2019	01-09-2019	31	8.6	10.6 as on 10-07-2019	69,492
36	01-09-2019	01-10-2019	30	8.45	10.45 as on 10-08-2019	66,298
37	01-10-2019	01-11-2019	31	8.35	10.35 as on 10-09-2019	67,853
38	01-11-2019	01-12-2019	30	8.25	10.25 as on 10-10-2019	65,029
39	01-12-2019	01-01-2020	31	8.2	10.2 as on 10-11-2019	66,869
40	01-01-2020	01-02-2020	31	8.2	10.2 as on 10-12-2019	66,869
41	01-02-2020	01-03-2020	29	8.2	10.2 as on 10-01-2020	62,555
42	01-03-2020	01-04-2020	31	8.15	10.15 as on 10-02-2020	66,541
43	01-04-2020	01-05-2020	30	8.05	10.05 as on 10-03-2020	63,760
44	01-05-2020	01-06-2020	31	7.7	9.7 as on 10-04-2020	63,591
45	01-06-2020	01-07-2020	30	7.55	9.55 as on 10-05-2020	60,588

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46	01-07-2020	01-08-2020	31	7.3	9.3 as on 10-06-2020	60,969
47	01-08-2020	01-09-2020	31	7.3	9.3 as on 10-07-2020	60,969
48	01-09-2020	01-10-2020	30	7.3	9.3 as on 10-08-2020	59,002
49	01-10-2020	01-11-2020	31	7.3	9.3 as on 10-09-2020	60,969
50	01-11-2020	01-12-2020	30	7.3	9.3 as on 10-10-2020	59,002
51	01-12-2020	01-01-2021	31	7.3	9.3 as on 10-11-2020	60,969
52	01-01-2021	01-02-2021	31	7.3	9.3 as on 10-12-2020	60,969
53	01-02-2021	01-03-2021	28	7.3	9.3 as on 10-01-2021	55,069
54	01-03-2021	01-04-2021	31	7.3	9.3 as on 10-02-2021	60,969
55	01-04-2021	01-05-2021	30	7.3	9.3 as on 10-03-2021	59,002
56	01-05-2021	01-06-2021	31	7.3	9.3 as on 10-04-2021	60,969
57	01-06-2021	01-07-2021	30	7.3	9.3 as on 15-05-2021	59,002
58	01-07-2021	01-08-2021	31	7.3	9.3 as on 15-06-2021	60,969
59	01-08-2021	01-09-2021	31	7.3	9.3 as on 15-07-2021	60,969
60	01-09-2021	01-10-2021	30	7.3	9.3 as on 15-08-2021	59,002

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61	01-10-2021	01-11-2021	31	7.3	9.3 as on 15-09-2021	60,969
62	01-11-2021	01-12-2021	30	7.3	9.3 as on 15-10-2021	59,002
63	01-12-2021	01-01-2022	31	7.3	9.3 as on 15-11-2021	60,969
64	01-01-2022	01-02-2022	31	7.3	9.3 as on 15-12-2021	60,969
65	01-02-2022	01-03-2022	28	7.3	9.3 as on 15-01-2022	55,069
66	01-03-2022	01-04-2022	31	7.3	9.3 as on 15-02-2022	60,969
67	01-04-2022	01-05-2022	30	7.3	9.3 as on 15-03-2022	59,002
68	01-05-2022	01-06-2022	31	7.3	9.3 as on 15-03-2022	60,969
69	01-06-2022	06-06-2022	5	7.3	9.3 as on 15-03-2022	9,833
					TOTAL DELAYED INTEREST as on 06/06/2022	43,21,529

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

12. **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


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complaint bearing **No.CMP/200930/0006731** is hereby allowed. Respondent is directed to pay the amount of **Rs.43,21,529/- (Rupees Forty Three Lakh Twenty One Thousand Five Hundred and Twenty Nine only)** calculated at 9% from 01/10/2016 to 30/4/2017 and MCLR + 2% from 01/05/2017 to 06/06/2022 to the complainant within 60 days from the date of this order. The interest due from 07/06/2022 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

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