

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 OCTOBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/211019/0008450

COMPLAINANT.....

**MR. JAGADISH BHASKAR BHATKAL
& MRS. JYOTI JAGADISH BHATKAL
B1 102, LAXMI PRABHA CHS
DAWOOD BAUG ROAD
ANDHERI WEST-400058
DISTRICT: MUMBAI SUBURBAN
STATE: MAHARASHTRA**

(By Mr. Bandagar Shivaji, Advocate)

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 complainants had booked an apartment in the project of respondent by entering into Agreement of Sale on 21/09/2017 and paid an amount of Rs.37,46,860/- (Rupees Thirty Seven Lakh Forty Six Thousand Eight Hundred and Sixty only) being sale consideration amount to the respondent

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

on various dates. The project has been registered under RERA and was valid till 31/12/2018. The respondent had assured the complainants that the flat will be handed over by the end of December 2018 with a grace period of six months. Even after a delay of more than 3 years, the respondent has not handed over the possession of the said Unit and only the structure is completed. Thus the complainant is left with no option, but to exit from the Project and approach the Authority for refund of the amount with interest till date. Hence, this complaint.

3. After registration of the complaint, in pursuance of the notice, the respondent appeared before the Authority only once through its representative. But the respondent has not contested the matter by filing statement of objections nor producing documents on its behalf.
4. In support of their claim, the complainants have produced in all 3 documents such as copies of Agreement of Sale, Payment receipts, and memo of calculation for refund with interest as on 02/07/2022.
5. Heard arguments of both sides.
6. On the above averments, the following points would arise for my consideration:-
 - a. Whether the complainants are entitled for the relief claimed?
 - b. 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

1. **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

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

possession of the apartment to the complainants, the builder has not handed over the possession of the flat even after a delay of more than three years. The respondent has also not applied for extension of RERA registration of the project. Hence, the builder has failed to abide by the terms of the agreement for sale and construction agreement dated 21/09/2017. 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 documents produced by the complainants, it is obvious that complainants have paid full sale consideration amount to the respondent. Having accepted the said amount and failing to keep up promise to handover possession of the apartment, certainly entitles the complainants herein for refund with interest. The complainants vide their memo of calculation as on 02/07/2022 have claimed that the respondent has to refund with interest an amount of Rs.58,25,027/-. During the process of the hearing on 10/8/2022, the representative who was present on behalf of the respondent assured to settle the matter with the complainants. However,

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

he failed to keep up the assurance of settling the matter. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest.

11. 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	NO OF DAYS TILL	INTEREST @9%
1	23-08-2014	2,00,000	981	30-04-2017	48,378
2	20-09-2014	6,53,404	953	30-04-2017	1,53,540
3				TOTAL INTEREST (I1)	2,01,918

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	8,53,404	1888	02-07-2022	8.15	10.15 as on 01-05-2017	4,48,053
2	22-08-2017	10,00,000	1775	02-07-2022	8.15	10.15 as on 01-08-2017	4,93,595
3	22-08-2017	13,50,000	1775	02-07-2022	8.15	10.15 as on 01-08-2017	6,66,354
4	22-08-2017	5,43,456	1775	02-07-2022	8.15	10.15 as on 01-08-2017	2,68,247
5	TOTAL AMOUNT	37,46,860				TOTAL INTEREST (I2)	18,76,249

Handwritten signature

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

Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2) AS ON 02-07-2022	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
37,46,860	20,78,167	0	58,25,027

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/211019/0008450** is hereby allowed. Respondent is directed to pay a sum of **Rs.58,25,027/- (Rupees Fifty Eight Lakh Twenty Five Thousand and Twenty Seven only)** calculated at 9% from 23/08/2014 to 30/4/2017 and at MCLR + 2% from 01/05/2017 till 02/07/2022 towards refund with interest to the complainant, within 60 days from the date of this order. The interest due from 03/07/2022 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

NOT AN OFFICIAL COPY