

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 12th OCTOBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220112/0008783

COMPLAINANTS.....

**MR. NEERAJ KUMAR TIWARI &
MRS. TRIPTI MISHRA
A 608, SHRIRAM GREEN FIELDS
BUDIGERE CROSS, OLD MADRAS ROAD
BANGALORE-560049.**

Vs

RESPONDENT.....

**SHRIVISION TOWERS PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.**

**(By Mr.Joseph Anthony, Advocate
& others, JSM Law Partners)**

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J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "SHRIRAM GREENFIELD PHASE 2" developed by **SHRIVISION TOWERS PVT LTD** on Sy.No.73/1, 73/2A, 74(P) & 81, Bommanahalli Village, Bidarahalli Hobli, Bangalore East Taluk, Hoskote, Bengaluru Rural District for the relief of interest on delay.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1250/304/PR/171014/001220 valid till 31/3/2021. The project was extended due to Covid-19 for a period of 9 months till 31/12/2021. The Authority has further extended its registration for a further period of 12 months i.e. till 31/12/2022.

Brief facts of the complaint are as under:-

3. The complainants had purchased an apartment in the project of respondent and entered into an agreement of sale and construction agreement on

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30/1/2019 and has paid an amount of Rs.44,83,224/- (Rupees Forty Four Lakh Eighty Three Thousand Two Hundred and Twenty Four only) to the respondent till date including subsequent payments. The respondent was supposed to hand over the possession of the flat to the complainants by 31/12/2021 with 6 months grace period, but till today the respondent has not handed over the possession of the apartment to the complainants. The respondent has failed to complete the project and deliver the possession of the flat on time. The respondent has kept postponing the date of possession and has defaulted on terms and conditions as agreed. Looking at the status of the project, the Bank is also not supporting. Hence, the respondent is liable to pay interest on delay period.

4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and has filed statement of objections as under:
5. The Respondent contends that the complainants are not entitled for seeking relief sought in light of the Agreement of Sale dated 30/1/2019 and submits that the delay in completion of the project was attributed to the pending litigations against the respondent before the Hon'ble National Green Tribunal in O.A.No.222/2014 as well as before the Hon'ble Supreme Court in Civil Appeal No.5016/2016 benches regarding maintenance of buffer zones where the apartment allotted to complainants in respect of the project was situated and on conclusion of the cases in Hon'ble NGT and Hon'ble Supreme Court, the construction proceeded.
6. The respondent submits that the project has not been completed within stipulated time due to force majeure events such as, scarcity of raw materials, non-availability of skilled labours, transport disruption or such reasons beyond the control of the respondent, and the respondent cannot



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be held liable to compensate the complainant under section 18(1) of RERA Act. In addition COVID-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondent. The respondent contends that there is no wilful delay or default by the respondent in handing over the possession of the apartment to the complainants and continues to remain committed to delivering the possession to its customers. The respondent denies the allegations of the complainants and submits that the delay has been caused as a result of factors beyond the control of the respondent such as the ruling of the NGT and force majeure of the pandemic. The respondent further submits that the impact of the ruling of the NGT, New Delhi was common knowledge as the same had been extensively published in the media and the newspapers as the same was widely covered in public knowledge and prays not to grant the relief sought by the complainants in the interest of justice and equity.

7. In support of their claim, the respondent has submitted copies of the building plan dated 1/3/2016 sanctioned by Hoskote Planning Authority, Agreement for Sale, Order dated 4/5/2016 passed by the Hon'ble National Green Tribunal in O.A.No.222/2014, Order dated 5/3/2019 passed by the Hon'ble Supreme Court in Civil Appeal No.5016/2016, Sanctioned Plan dated 1/3/2016, RERA registration dated 10/8/2017, Village map of Bommanahalli, Village map of Bendiganahalli, Screenshot depicting the location of project vis-à-vis the lake and memo of calculation as on 27/9/2022.
8. In support of their claim, the complainants have produced documents such as copies of Agreement for Sale and memo of calculation as on 06/07/2022.
9. Heard arguments of both sides.

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10. On the above averments, the following points would arise for my consideration:-

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

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

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

REASONS

12. 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 apartment within 31/12/2021 with the grace period of six months, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainants till today.

13. During the process of the hearing the Authority directed the respondent to furnish information regarding the date of detailed sanctioned plan, date of start of NGT litigation, date of order of Hon'ble NGT/Supreme Court, date of sale of apartment to the complainants, whether the complainants/customers were kept informed about the litigation existing at the time of sale of agreement, whether they had kept the RERA Authority informed about this litigation at the time of registration.

14. The respondent have not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainants/customers about the ongoing dispute despite knowing the fact that the Hon'ble NGT order could delay their project. At the time of registration in RERA, the respondent could have taken larger time for completion or changed their building plan. The respondent's contention

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that the ruling of the NGT, New Delhi had been extensively published in the media and newspapers and that the buyer ought to have been aware about the ruling of the NGT, New Delhi is not acceptable. The onus is on the promoter to open all their cards at the time of sales and not to keep the customers in dark. Having regard to the above aspects, the Authority is of the opinion that the complainants are entitled for delay period interest from 31/3/2021 to 6/7/2022 and later on.

15. The complainants vide their memo of calculation as on 6/7/2022 have claimed an amount of Rs.4,76,414/- as delay period interest calculated from 31/3/2021 to 6/7/2022 and later on. The respondent vide his memo of calculation as on 27/09/2022 has submitted that the delay period interest payable to the complainants is Rs.2,66,166/- (calculated from 31/12/2021 till 27/9/2022) which is not acceptable. There is no dispute over the principal amount paid and received by both the parties. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/3/2021 to 6/7/2022 and later on as submitted by them.

16. Therefore, it is incumbent upon the respondent to pay interest on delay as determined as under

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	35,73,279	31-03-2021
2	SUBSEQUENT PAYMENT 1	2,49,945	28-04-2021
3	SUBSEQUENT PAYMENT 2	2,00,000	30-06-2021
4	SUBSEQUENT PAYMENT 3	1,50,000	28-02-2022
5	SUBSEQUENT PAYMENT 4	10,000	16-05-2022
6	SUBSEQUENT PAYMENT 5	3,00,000	31-05-2022

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Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 35,73,279						
1	31-03-2021	30-04-2021	30	7.3	9.3 as on 10-03-2021	27,313
2	30-04-2021	30-05-2021	30	7.3	9.3 as on 10-04-2021	27,313
3	30-05-2021	30-06-2021	31	7.3	9.3 as on 15-05-2021	28,224
4	30-06-2021	30-07-2021	30	7.3	9.3 as on 15-06-2021	27,313
5	30-07-2021	30-08-2021	31	7.3	9.3 as on 15-07-2021	28,224
6	30-08-2021	30-09-2021	31	7.3	9.3 as on 15-08-2021	28,224
7	30-09-2021	30-10-2021	30	7.3	9.3 as on 15-09-2021	27,313
8	30-10-2021	30-11-2021	31	7.3	9.3 as on 15-10-2021	28,224
9	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	27,313
10	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	28,224
11	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	26,403
12	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	25,492
13	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	28,224

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14	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	27,607
15	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	28,830
16	28-06-2022	06-07-2022	8	7.7	9.7 as on 15-06-2022	7,596
INTEREST CALCULATION FOR 1 SUBSEQUENT PAYMENT 2,49,945						
1	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	1,910
2	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	1,974
3	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	1,910
4	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	1,974
5	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	1,974
6	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	1,910
7	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	1,974
8	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	1,910
9	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	1,974
10	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	1,974
11	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	1,783
12	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	1,974

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13	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	1,931
14	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	2,016
15	28-06-2022	06-07-2022	8	7.7	9.7 as on 15-06-2022	531
INTEREST CALCULATION FOR 2 SUBSEQUENT PAYMENT 2,00,000						
1	30-06-2021	30-07-2021	30	7.3	9.3 as on 15-06-2021	1,528
2	30-07-2021	30-08-2021	31	7.3	9.3 as on 15-07-2021	1,579
3	30-08-2021	30-09-2021	31	7.3	9.3 as on 15-08-2021	1,579
4	30-09-2021	30-10-2021	30	7.3	9.3 as on 15-09-2021	1,528
5	30-10-2021	30-11-2021	31	7.3	9.3 as on 15-10-2021	1,579
6	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	1,528
7	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	1,579
8	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	1,477
9	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	1,426
10	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	1,579
11	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	1,545
12	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	1,613

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13	28-06-2022	06-07-2022	8	7.7	9.7 as on 15-06-2022	425
INTEREST CALCULATION FOR 3 SUBSEQUENT PAYMENT 1,50,000						
1	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	2,091
2	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	2,135
3	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	2,229
4	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	2,054
5	28-06-2022	06-07-2022	8	7.7	9.7 as on 15-06-2022	
INTEREST CALCULATION FOR 4 SUBSEQUENT PAYMENT 10,000						
1	16-05-2022	16-06-2022	31	7.5	9.5 as on 15-05-2022	80
2	16-06-2022	06-07-2022	20	7.7	9.7 as on 15-06-2022	53
INTEREST CALCULATION FOR 4 SUBSEQUENT PAYMENT 3,00,000						
1	31-05-2022	30-06-2022	30	7.5	9.5 as on 15-05-2022	
2	30-06-2022	06-07-2022	6	7.7	9.7 as on 15-06-2022	
					TOTAL DELAYED INTEREST as on 06/07/2022	4,76,414

17. Accordingly, the point raised above is answered in the Affirmative.

(Signature)

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18. 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 complaint bearing No.**CMP/220112/0008783** is hereby allowed. Respondent is directed to pay a sum of **Rs.4,76,414/- (Rupees Four Lakh Seventy Six Thousand Four Hundred and Fourteen only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 31/3/2021 till 06/07/2022. The interest due from 07/08/2022 up to the date of final payment will be calculated likewise and paid to the complainants. The complainants are 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