

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 31ST OCTOBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/211201/0008657

COMPLAINANTS.....

**PRABHU KUMAR XAVIER &
DEEPA PRABHU
425, SADHANAND NAGAR
NGEF LAYOUT
BANGALORE-560038.**

(BY MR. ABHEEK SAHA, ADVOCATE)

Vs

RESPONDENT.....

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

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

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

**RAJESH YASHWANT SHIRWATKAR
DIRECTOR
SHRIVISION TOWERS PVT LTD &
& DIRECTOR
SHRIPROP HOMES PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.**

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Karnataka Real Estate Regulatory Authority,
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KRISHNA VEERARAGHAVAN
DIRECTOR
DIRECTOR
SHRIVISION TOWERS PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.

GOPALA KRISHNAN JAGADEESHWARAN
DIRECTOR
SHRIPROP HOMES PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.

NARASIMHA MURTHY NAGENDRA
DIRECTOR
SHRIPROP HOMES 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 1" developed by **SHRIVISION TOWERS PVT LTD** on Sy.No.73/1, 73/2A, 74(P) & 81, Bammenahalli 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/171014/001213 valid till 31/3/2019. The Authority has further extended its registration for a further period of 12 months i.e. till 30/03/2020.

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Brief facts of the complaint are as under:-

3. The complainant had purchased an apartment in the project of respondent and entered into an agreement of sale on 07/10/2015 and has paid an amount of Rs.49,31,819/- (Rupees Forty Nine Lakh Thirty One Thousand Eight Hundred and Nineteen only) to the respondent till date. The respondent was supposed to hand over the possession of the flat to the complainants by 31/12/2017 with grace period of six months i.e. latest by 30/06/2018. The complainants submit that the respondent has not given possession of the flat even after four years. The complainants requests for delay period interest to be paid by the Respondent. Hence, this complaint.

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 complainant is not entitled for seeking relief sought in light of the Agreement of Sale dated 07/10/2015 with agreed date of possession as 30/6/2018 after adding grace period and submits that the delay in completion of the project was due to force majeure conditions such as, demonetization, scarcity of raw materials, non-availability of skilled labours, transport disruption or such reasons beyond the control of the respondent, and the respondent cannot 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 willful delay or default by the respondent in handing over the possession of the apartment to the complainant and continues to remain committed to delivering the possession to its customers. The respondent submits that the Occupancy Certificate was received on 01/08/2019 and was informed to the complainants through email dated 15/10/2019 and that the

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process of the registration of the property will be scheduled. The respondent submits that several email communications were sent to the complainants to clear the balance amount and furnish KYC details for preparing Sale Deed. The complainants made no efforts to communicate with the respondent and failed to come forward to execute registration of the Sale Deed. The complainants were also requested to choose the date of registration through email dated 31 January 2020 and subsequently. The complainants confirmed that they would come forward for the registration of the Sale Deed on 18/10/2021 and that they are agreeable with the deductions as intimated by the respondent through email dated 31/1/2020. Despite confirming, the complainants failed to turn up for the registration and deliberately delayed the registration for more than two years in spite of the best efforts of the respondent. The complainants are evading the registration of sale deed for the apartment with malafide intention. The respondent denies the allegations of the complainants and prays not to grant the relief sought by them in the interest of justice and equity.

6. In support of their defence, the respondent has submitted copy of the Agreement of Sale, Construction Agreement, RERA registration, RERA extension certificates, Occupancy Certificate, email correspondences with the complainants, Demand Note dated 1/2/2020 and memo of calculation as on 13/10/2022.

7. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale, Construction Agreement, Tripartite Agreement, Consolidated Payment Receipts, email communications with the respondent and memo of calculation as on 26/07/2022.

8. Heard arguments of both sides.

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

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1. Whether the complainants are entitled for the relief claimed?

2. What order?

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

1. In the Affirmative.

2. As per final order for the following

REASONS

11. 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 31/12/2017 with grace period of six months i.e. latest by 30/6/2018, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainants as agreed. It is also evident that the respondent has received the Occupancy Certificate from the competent authority on 01/08/2019, and had promptly conveyed to the complainants through email dated 15/10/2019. Despite several email communications from the respondent, the complainants did not come forward to get the Sale Deed registered. The complainants vide their memo of calculation as on 26/07/2022 have claimed an amount of Rs.22,31,839/- as interest on delay from 31/12/2017 to 26/07/2022. Though the respondent had informed the complainants several times to come forward for the registration of the Sale Deed, the complainants failed to do so. Moreover, at the time of entering into agreement of Sale and Construction on 07/10/2015, it has been clearly mentioned in the agreement that the possession of the flat will be handed over by 31/12/2017 with a grace period of six months i.e. latest by 30/6/2018. As such, the complainants are eligible for delay period interest calculated from 30/6/2018 till 01/08/2019. The respondent has filed its memo of calculation as on 13/10/2022 submitting

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that the delay period interest payable to the complainants is Rs.4,35,481/- calculated from 30/6/2018 till 01/08/2019. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 30/6/2018 till 15/10/2019 only.

12. 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	37,61,417	30/06/2018
2	SUBSEQUENT PAYMENT 1	1,29,393	19/02/2020
3	TOTAL PRINCIPAL AMOUNT	38,90,810	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 3,761,417						
1	30/06/2018	30/07/2018	30	8.45	10.45 as on 01-06-2018	32,306
2	30/07/2018	30/08/2018	31	8.45	10.45 as on 01-07-2018	33,383
3	30/08/2018	30/09/2018	31	8.45	10.45 as on 01-08-2018	33,383
4	30/09/2018	30/10/2018	30	8.65	10.65 as on 01-09-2018	32,925
5	30/10/2018	30/11/2018	31	8.7	10.7 as on 01-10-2018	34,182
6	30/11/2018	30/12/2018	30	8.7	10.7 as on 01-11-2018	33,079

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7	30/12/2018	30/01/2019	31	8.75	10.75 as on 10-12-2018	34,342
8	30/01/2019	28/02/2019	29	8.75	10.75 as on 10-01-2019	32,126
9	28/02/2019	28/03/2019	28	8.75	10.75 as on 10-02-2019	31,018
10	28/03/2019	28/04/2019	31	8.75	10.75 as on 10-03-2019	34,342
11	28/04/2019	28/05/2019	30	8.7	10.7 as on 10-04-2019	33,079
12	28/05/2019	28/06/2019	31	8.65	10.65 as on 10-05-2019	34,022
13	28/06/2019	28/07/2019	30	8.65	10.65 as on 10-06-2019	32,925
14	28/07/2019	28/08/2019	31	8.6	10.6 as on 10-07-2019	33,863
15	28/08/2019	28/09/2019	31	8.45	10.45 as on 10-08-2019	33,383
16	28/09/2019	15/10/2019	17	8.35	10.35 as on 10-09-2019	18,132
INTEREST CALCULATION FOR 1 SUBSEQUENT PAYMENT 1,29,393						NIL
					TOTAL DELAYED INTEREST as on 15/10/2019	5,16,490

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 –

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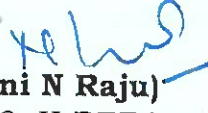
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ORDER

1. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/211201/0008657** is hereby allowed partly. Respondent is directed to pay a sum of **Rs.5,16,490/- (Rupees Five Lakh Sixteen Thousand Four Hundred and Ninety only)** towards delay period interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 30/06/2018 till 15/10/2019. 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.

2. The complainants are hereby directed to pay the balance amount to the respondent and get the registration of the Sale Deed immediately.


(Neelmani N Raju)
Member-2, K-RERA