

**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 10<sup>TH</sup> NOVEMBER 2022**

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

**COMPLAINT NO.: CMP/210923/0008369**

**COMPLAINANTS.....**

**MR. DILIP CHANDRA &  
MRS. NILAM CHANDRA  
FLAT NO.58, RASHMI RATHI APARTMENT  
CHANDNI CHOWK, KANKE ROAD  
RANCHI - 834006  
DISTRICT: RANCHI  
STATE: JHARKHAND**

**(BY MR.B.G. NANJUNDARADHYA,  
ADVOCATE)**

**V/S**

**RESPONDENT.....**

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

**S. VASUDEVAN  
No.38, Ulsoor Road ,  
Bengaluru - 560042.**

**(By Sri.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 "Ozone Urbana" for the relief of interest on delay period in handing over the apartment, completion and possession of the apartment.

*[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

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

2. The complainants had purchased an apartment D G02 in the project of respondent 'URBANA BELVEDERE' by entering into an agreement of sale and construction dated 10/09/2015 and has paid the respondent an amount of Rs.86,39,284/- (Rupees Eighty Six Lakh Thirty Nine Thousand Two Hundred and Eighty Four only) as on 26/06/2017. As per sale and construction agreement the respondent was under obligation to handover possession before end of December 2017 with a grace period of six months i.e. latest by 30/06/2018. Though more than four years have lapsed, the respondent has failed to complete the project as agreed and to handover the possession of the apartment to the complainants. Due to the enormous delay by the respondent in handing over the possession of the apartment the complainants are paying huge rents and have suffered mental agony and monetary losses. The complainants pray the Authority to direct the respondent to pay interest on delay period, speeding up the construction and handover the apartment to them on or before 31/12/2022 with occupancy certificate without any further postponement. Hence, this complaint.

1. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel have filed their statement of objections as under:
2. The respondent denies all allegations and claims made against it by the complainants as false. The respondent contends that the Authority has no jurisdiction to hear the matter seeking the relief of delay compensation, in light of the judgement dated 11/11/2021 passed by the Hon'ble Supreme Court of India in the case between M/s. Newtech Promoters & Developers Pvt Ltd Vs State of U.P., that the delay compensation is to be adjudicated by the Adjudicating Officer and not the RERA Authority. The respondents

*[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

submits that there has been no delay on the part of the respondent as claimed by the complainants and that a perusal of agreement of sale demonstrates that no date of possession/completion date has been indicated therein. Only if the respondent fails to complete or is unable to give possession of an apartment, plot or building in accordance with the terms of agreement of sale, then the question of paying any interest or compensation arises. The respondent further contends that the handover of possession would be the completion date as per RERA registration i.e. 30/10/2023. As such, there is no delay in the delivery of the unit to the complainants and the same will be handed over by 30/10/2023. The respondent prays that the complaint is to be dismissed in the interest of justice and equity.

3. In support of their defence, the respondent has filed copies of documents such as agreement of sale dated 10/9/2015, construction agreement dated 10/9/2015, RERA registration and extension certificates and memo of calculation as on 18/6/2022.
4. In support of their claim, the complainants have produced documents such as copies of Agreement for Sale, Construction agreement, Payment receipts, Customer's statement of account issued by Ozone and Memo of calculation for interest on delay period as on 26/5/2022 and 19/11/2022.
5. Heard arguments of both sides.
6. **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?
7. **My answer to the above points are as under:-**



# 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

1. In the Affirmative.
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 complainants herein within agreed time even after receiving substantial sale consideration amount. As per the terms of agreement of sale and construction agreement between the parties, the possession of the apartment had to be handed over before the end of December 2017 with a grace period of six months i.e. latest by 30/6/2018. When the respondent has failed to handover possession of the apartment as agreed, the complainants have approached this forum for direction to the respondent for speeding up the construction, handover possession of the apartment with occupancy certificate and to pay interest on delay period.
9. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainants have already paid substantial sale consideration amount to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of the apartment even after four years, certainly entitles the complainants herein for delay period interest. The memo of calculation filed by both the parties were calculated for refund with interest. As such, the Authority directed both the parties to file fresh memo of calculation. Accordingly, the complainants submitted their memo of calculation as on 19/11/2022 claiming an amount of Rs.1,08,26,628/- (Rupees One Crore Eight Lakh Twenty Six Thousand Six Hundred and Twenty Eight only) as delay period interest calculated from 26/6/2017 to 19/11/2022. Despite opportunities

*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

given, the respondent have not filed fresh memo of calculation. There is no dispute over the principal amount paid and received by both the parties.

10. The Authority do not agree with the contention of the respondent that the Authority has no jurisdiction to hear the matter seeking relief of delay compensation. The Authority also do not agree with the contention of the respondent to the effect that no date of possession/complete date is mentioned in the agreement of sale. A perusal of the agreement of sale dated 10/9/2015 and construction agreement dated 10/9/2015 entered into with the complainants by the respondent reveals that in the construction agreement on Page 38 Annexure-3 ***“Delivery Schedule reads as follows: The delivery of Scheduled ‘D’ apartment will be done on or before expiry of December 2017 from the date of receipt of work commencement certificate with a grace period of six months without quoting of any reason”.*** The respondent vide his email dated 2/12/2019 has also informed the complainants that the possession will be handed over latest by March 31, 2020. The period of date mentioned in the RERA extension registration is 30/9/2023 i.e. the validity period for the project completion and not the possession date for handing over the apartment to the complainants.

11. On a perusal of the memo of calculation submitted by the complainants as on 19/11/2022, the Authority noticed that the calculation is made for double entries and do not accept it. A fresh memo of calculation has been calculated by RERA on the basis of the information furnished by the complainants.

*Relu*

**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

12. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest calculated from 26/6/2018 to 19/11/2022.

13. Therefore, it is incumbent upon the respondent to pay interest for the principle amount for the delay period which is determined as under:

Payment Details		
TYPE	AMOUNT	DATE
TOTAL PAYMENT TILL POSSESSION	86,39,284	26-06-2017

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION Rs.86,39,284/-						
1	26-06-2018	26-07-2018	30	8.45	10.45 as on 01-06-2018	74,203
2	26-07-2018	26-08-2018	31	8.45	10.45 as on 01-07-2018	76,676
3	26-08-2018	26-09-2018	31	8.45	10.45 as on 01-08-2018	76,676
4	26-09-2018	26-10-2018	30	8.65	10.65 as on 01-09-2018	75,623
5	26-10-2018	26-11-2018	31	8.7	10.7 as on 01-10-2018	78,510
6	26-11-2018	26-12-2018	30	8.7	10.7 as on 01-11-2018	75,978
7	26-12-2018	26-01-2019	31	8.75	10.75 as on 10-12-2018	78,877

*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

8	26-01-2019	26-02-2019	31	8.75	10.75 as on 10-01-2019	78,877
9	26-02-2019	26-03-2019	28	8.75	10.75 as on 10-02-2019	71,244
10	26-03-2019	26-04-2019	31	8.75	10.75 as on 10-03-2019	78,877
11	26-04-2019	26-05-2019	30	8.7	10.7 as on 10-04-2019	75,978
12	26-05-2019	26-06-2019	31	8.65	10.65 as on 10-05-2019	78,144
13	26-06-2019	26-07-2019	30	8.65	10.65 as on 10-06-2019	75,623
14	26-07-2019	26-08-2019	31	8.6	10.6 as on 10-07-2019	77,777
15	26-08-2019	26-09-2019	31	8.45	10.45 as on 10-08-2019	76,676
16	26-09-2019	26-10-2019	30	8.35	10.35 as on 10-09-2019	73,493
17	26-10-2019	26-11-2019	31	8.25	10.25 as on 10-10-2019	75,209
18	26-11-2019	26-12-2019	30	8.2	10.2 as on 10-11-2019	72,427
19	26-12-2019	26-01-2020	31	8.2	10.2 as on 10-12-2019	74,842
20	26-01-2020	26-02-2020	31	8.2	10.2 as on 10-01-2020	74,842
21	26-02-2020	26-03-2020	29	8.15	10.15 as on 10-02-2020	69,670
22	26-03-2020	26-04-2020	31	8.05	10.05 as on 10-03-2020	73,741

Mh



# 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

23	26-04-2020	26-05-2020	30	7.7	9.7 as on 10-04-2020	68,877
24	26-05-2020	26-06-2020	31	7.55	9.55 as on 10-05-2020	70,072
25	26-06-2020	26-07-2020	30	7.3	9.3 as on 10-06-2020	66,037
26	26-07-2020	26-08-2020	31	7.3	9.3 as on 10-07-2020	68,238
27	26-08-2020	26-09-2020	31	7.3	9.3 as on 10- 08-2020	68,238
28	26-09-2020	26-10-2020	30	7.3	9.3 as on 10-09-2020	66,037
29	26-10-2020	26-11-2020	31	7.3	9.3 as on 10-10-2020	68,238
30	26-11-2020	26-12-2020	30	7.3	9.3 as on 10-11-2020	66,037
31	26-12-2020	26-01-2021	31	7.3	9.3 as on 10-12-2020	68,238
32	26-01-2021	26-02-2021	31	7.3	9.3 as on 10-01-2021	68,238
33	26-02-2021	26-03-2021	28	7.3	9.3 as on 10-02-2021	61,634
34	26-03-2021	26-04-2021	31	7.3	9.3 as on 10-03-2021	68,238
35	26-04-2021	26-05-2021	30	7.3	9.3 as on 10-04-2021	66,037
36	26-05-2021	26-06-2021	31	7.3	9.3 as on 15-05-2021	68,238
37	26-06-2021	26-07-2021	30	7.3	9.3 as on 15-06-2021	66,037
38	26-07-2021	26-08-2021	31	7.3	9.3 as on 15-07-2021	68,238
39	26-08-2021	26-09-2021	31	7.3	9.3 as on 15-08-2021	68,238
40	26-09-2021	26-10-2021	30	7.3	9.3 as on 15-09-2021	66,037
41	26-10-2021	26-11-2021	31	7.3	9.3 as on 15-10-2021	68,238

ಸಹಿ



**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

42	26-11-2021	26-12-2021	30	7.3	9.3 as on 15-11-2021	66,037
43	26-12-2021	26-01-2022	31	7.3	9.3 as on 15-12-2021	68,238
44	26-01-2022	26-02-2022	31	7.3	9.3 as on 15-01-2022	68,238
45	26-02-2022	26-03-2022	28	7.3	9.3 as on 15-02-2022	61,634
46	26-03-2022	26-04-2022	31	7.3	9.3 as on 15-03-2022	68,238
47	26-04-2022	26-05-2022	30	7.4	9.4 as on 15-04-2022	66,747
48	26-05-2022	26-06-2022	31	7.5	9.5 as on 15-05-2022	69,706
49	26-06-2022	26-07-2022	30	7.7	9.7 as on 15-06-2022	68,877
50	26-07-2022	26-08-2022	31	7.8	9.8 as on 15-07-2022	71,907
51	26-08-2022	26-09-2022	31	8	10.0 as on 15-08-2022	73,374
52	26-09-2022	26-10-2022	30	8	10.0 as on 15-08-2022	71,007
53	26-10-2022	19-11-2022	24	8	10.0 as on 15-08-2022	56,806
54					<b>TOTAL DELAYED INTEREST as on 19/11/2022</b>	<b>46,33,772</b>

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

15. **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

*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

complaint bearing **No.CMP/210923/0008369** is hereby allowed. Respondent is directed to

a. pay the amount of **Rs.46,33,772/- (Rupees Forty Six Lakh Thirty Three Thousand Seven Hundred and Seventy Two only)** towards delay period interest calculated at MCLR + 2% from 26/06/2018 till 19/11/2022 to the complainants within 60 days from the date of this order. The interest due from 20/11/2022 up to the date of final payment will be calculated likewise and paid to the complainants.

b. Respondent is directed to complete the construction and handover the possession of the apartment with occupancy certificate to the complainants immediately.

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