

**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 2<sup>ND</sup> NOVEMBER 2022**

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

**COMPLAINT NO.: CMP/220516/0009465**

**COMPLAINANTS.....**

**Mr. B.R. VASUKI &  
MRS.B.R. VASUDHA  
C-601, BRIGADE RESIDENCY  
8<sup>TH</sup> MAIN, MALLESWARAM  
BANGALORE-560055.**

**(BY MR. SANDEEP LAHIRI,  
ADVOCATE & OTHERS)**

**V/S**

**RESPONDENT.....**

**Ozone Urbana Infra Developers Pvt Ltd.  
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 in handing over the apartment, completion and possession of the apartment and reimbursement of PEMIs paid by the complainants to the Bank.

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

2. The complainants had purchased an apartment T-604 in the project of respondent by entering into an agreement of sale and construction on 12/9/2016

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and has paid the respondent an amount of Rs.70,48,674/- (Rupees Seventy Lakh Forty Eight Thousand Six Hundred and Seventy Four only) including Housing Loan from HDFC till date. As per sale and construction agreement the respondent was under obligation to handover possession before end of 31/03/2019 with a grace period of six months i.e. latest by 30/09/2019. Though more than three years have been lapsed, the respondent has failed to complete the project as agreed and to handover the possession of the apartment to the complainants. As per the Tripartite agreement, the respondent was supposed to pay pre-EMIs to the Bank till the possession of the apartment is handed over to the complainants. But, the respondent has not at all paid pre-EMIs to the Bank. The complainant has paid pre-EMIs from September 2019 to July 2022 to the tune of Rs.15,54,998/-. Due to the enormous delay by the respondent in handing over the possession of the apartment and not paying pre-EMIs as agreed, the complainants have suffered 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 immediately as well as refund the pre-EMIs paid to the Bank with interest. Hence, this complaint.

3. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel but has not contested the matter by filing objections and producing documents on its behalf. During the proceedings, they have filed a calculation sheet as on 30/9/2022.

4. In support of their claim, the complainants have produced documents such as copies of Agreement for Sale, Construction agreement, Tripartite Agreement, Payment receipts, statement of account issued by Ozone, statement of account from HDFC regarding pre-EMIs paid by the complainant to the Bank and Memo of calculation for interest on delay period as on 6/9/2022.

5. Heard arguments of both sides.



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**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:-**

- a. In the Affirmative.
- b. 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 between the parties, the possession of the apartment had to be handed over before the end of March 2019 with a grace period of six months i.e. latest by 30/9/2019. As per the tripartite agreement, the respondent had agreed to pay pre-EMIs to the Bank till the handover of the apartment to the complainants. The respondent has not paid pre-EMIs to the Bank till today. The complainants have paid an amount of Rs.15,54,998/- towards the pre-EMIs to the Bank from September 2019 to July 2022. When the respondent has failed to handover possession and pay pre-EMIs to the Bank as agreed, the complainants have approached this forum for direction to the respondent for speeding up the construction, handover possession of the apartment, to pay interest on delay period and refund pre-EMIs paid with interest.

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

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failure to keep up promise to handover possession of the apartment even after three years and not paying pre-EMIs to the Bank, certainly entitles the complainants herein for delay period interest. The complainants have claimed Rs.23,49,942/- (Rupees Twenty Three Lakh Forty Nine Thousand Nine Hundred and Forty Two only) as delay period interest vide their memo of calculation as on 06/09/2022 calculated from 31/3/2019 to 6/9/2022. The respondent in their calculation sheet as on 30/9/2022 submitted that the delay period interest payable to the complainants is Rs.25,32,751/-. The complainants did not agree with the principal amount submitted by the respondent in their calculation sheet.

10. The respondent failed to pay pre-EMIs to the Bank as agreed, due to which the complainants have paid pre-EMIs from September 2019 to July 2022 to the tune of Rs.15,54,998/-.

11. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest calculated from 30/9/2019 to 11/10/2022 and refund of Rs.15,54,998/- with interest paid to the Bank towards pre-EMIs from September 2019 to July 2022.

12. 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	70,48,674	30/9/2019

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION Rs.64,74,745/-						
1	30/09/2019	30/10/2019	30	8.35	10.35 as on 10-09-2019	59,962

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2	30/10/2019	30/11/2019	31	8.25	10.25 as on 10-10-2019	61,362
3	30/11/2019	30/12/2019	30	8.2	10.2 as on 10-11-2019	59,092
4	30/12/2019	30/01/2020	31	8.2	10.2 as on 10-12-2019	61,062
5	30/01/2020	29/02/2020	30	8.2	10.2 as on 10-01-2020	59,092
6	29/02/2020	29/03/2020	29	8.15	10.15 as on 10-02-2020	56,843
7	29/03/2020	29/04/2020	31	8.05	10.05 as on 10-03-2020	60,164
8	29/04/2020	29/05/2020	30	7.7	9.7 as on 10-04-2020	56,196
9	29/05/2020	29/06/2020	31	7.55	9.55 as on 10-05-2020	57,171
10	29/06/2020	29/07/2020	30	7.3	9.3 as on 10-06-2020	53,878
11	29/07/2020	29/08/2020	31	7.3	9.3 as on 10-07-2020	55,674
12	29/08/2020	29/09/2020	31	7.3	9.3 as on 10-08-2020	55,674
13	29/09/2020	29/10/2020	30	7.3	9.3 as on 10-09-2020	53,878
14	29/10/2020	29/11/2020	31	7.3	9.3 as on 10-10-2020	55,674
15	29/11/2020	29/12/2020	30	7.3	9.3 as on 10-11-2020	53,878
16	29/12/2020	29/01/2021	31	7.3	9.3 as on 10-12-2020	55,674
17	29/01/2021	28/02/2021	30	7.3	9.3 as on 10-01-2021	53,878
18	28/02/2021	28/03/2021	28	7.3	9.3 as on 10-02-2021	50,286

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19	28/03/2021	28/04/2021	31	7.3	9.3 as on 10-03-2021	55,674
20	28/04/2021	28/05/2021	30	7.3	9.3 as on 10-04-2021	53,878
21	28/05/2021	28/06/2021	31	7.3	9.3 as on 15-05-2021	55,674
22	28/06/2021	28/07/2021	30	7.3	9.3 as on 15-06-2021	53,878
23	28/07/2021	28/08/2021	31	7.3	9.3 as on 15-07-2021	55,674
24	28/08/2021	28/09/2021	31	7.3	9.3 as on 15-08-2021	55,674
25	28/09/2021	28/10/2021	30	7.3	9.3 as on 15-09-2021	53,878
26	28/10/2021	28/11/2021	31	7.3	9.3 as on 15-10-2021	55,674
27	28/11/2021	28/12/2021	30	7.3	9.3 as on 15-11-2021	53,878
28	28/12/2021	28/01/2022	31	7.3	9.3 as on 15-12-2021	55,674
29	28/01/2022	28/02/2022	31	7.3	9.3 as on 15-01-2022	55,674
30	28/02/2022	28/03/2022	28	7.3	9.3 as on 15-02-2022	50,286
31	28/03/2022	28/04/2022	31	7.3	9.3 as on 15-03-2022	55,674
32	28/04/2022	28/05/2022	30	7.4	9.4 as on 15-04-2022	54,458
33	28/05/2022	28/06/2022	31	7.5	9.5 as on 15-05-2022	56,872
34	28/06/2022	28/07/2022	30	7.7	9.7 as on 15-06-2022	56,196
35	28/07/2022	28/08/2022	31	7.8	9.8 as on 15-07-2022	58,668

*Handwritten signature*

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36	28/08/2022	28/09/2022	31	8	10.0 as on 15-08-2022	59,865
37	28/09/2022	11/10/2022	13	8	10.0 as on 15-08-2022	25,104
38					TOTAL DELAYED INTEREST as on 11/10/2022	20,41,791

13. Accordingly 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.

**ORDER**

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing **No.CMP/220516/0009465** is hereby allowed. Respondent is directed to

- pay the amount of **Rs.20,41,791/- (Rupees Twenty Lakh Forty One Thousand Seven Hundred and Ninety One only)** towards delay period interest calculated at MCLR + 2% from 30/09/2019 till 11/10/2022 to the complainants within 60 days from the date of this order. The interest due from 12/10/2022 up to the date of final payment will be calculated likewise and paid to the complainants.
- refund an amount of **Rs.14,31,364/- plus interest** calculated at MCLR + 2% for the pre-EMIs paid by the complainants to the Bank from September 2019 to July 2022 and later on, if any.

*(Signature)*


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- c. Respondent is directed to complete the construction and handover the possession of the apartment 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

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