

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 2ND NOVEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/UR/201017/0006872

COMPLAINANTS.....

**MR. KAMAL KISHORE SAHOO &
MRS. MOHUA CHAKRABORTY
10, SIDDHI, SHIVANI SUNSHINE
CHOODASANDRA
KASAVANAHALLI MAIN ROAD
BANGALORE-560099.
(In Person)**

Vs

RESPONDENT.....

**MR.KOTESHWAR RAO PODAPATI
401, PALACE VIEW APARTMENTS
9TH CROSS, HAL 3RD STAGE
KODIHALLI
BANGALORE-560008.**

*** * * * ***

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "SHIVANI SUNSHINE" developed by **MR. KOTESHWAR RAO PODAPATI** on Shivani Sunshine, Choodasandra, Sarjapura Hobli, Bangalore for the relief of interest on delay period.
2. This project has not been registered under RERA.

Brief facts of the complaint are as under:-

3. The complainants have purchased an apartment in the project of respondent and entered into an agreement of sale and construction agreement on 02/05/2016 and have paid total sale consideration

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amount of Rs.90,00,000/- (Rupees Ninety Lakh only) to the respondent as on 28/10/2021. The respondent was supposed to hand over the possession of the flat to the complainants by December 2016. The project completion date was December 2016 but still it is incomplete. The respondent has not obtained Occupancy Certificate, Commencement Certificate, Building Completion Certificate, Khata-Ownership transfer, latest tax paid receipts, NOCs from various Government authorities and has not provided back-up power supply, water tank, outside plastering, painting, common amenities like club house, party hall, swimming pool, gymnasium, kids play area etc. The complainants have also executed and registered sale deed on 14/8/2020. The complainants have approached this Authority with a prayer to direct the respondent to complete the project without delay, handover all project related documents, NOCs from Government Authorities, pay delay compensation, for mental agony and harassment. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondent has not appeared before the Authority either in person or through its counsel and has not filed statement of objections or produced any documents on its behalf.
5. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale and memo of calculation as on 28/8/2022.
6. Heard arguments of both sides.

7. 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?

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

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

REASONS

9. **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 with all the amenities and NOCs from the various government authorities, the respondent has failed to abide by the terms of the agreement and has not obtained Occupancy Certificate, Commencement Certificate, Building Completion Certificate, Khata-Ownership transfer, latest tax paid receipts, NOCs from various Government authorities. The respondent has also not provided back-up power supply, water tank, outside plastering, painting, common amenities like club house, party hall, swimming pool, gymnasium, kids play area etc. The complainants vide their memo of calculation as on 28/8/2022 have claimed an amount of Rs.46,39,006/- as interest on delay from 9/4/2016 to 28/8/2022. The respondent has not filed its memo of calculation despite several opportunities given. The complainants have submitted that the registration of the property has been executed on 14/8/2020. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/12/2016 to 14/8/2020.

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

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	68,00,000	31-12-2016
2	SUBSEQUENT PAYMENT 1	12,00,000	11-01-2017

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3	SUBSEQUENT PAYMENT 2	1,00,000	23-12-2018
4	SUBSEQUENT PAYMENT 3	6,00,000	14-08-2020
5	SUBSEQUENT PAYMENT 4	1,00,000	14-08-2021
6	SUBSEQUENT PAYMENT 5	1,00,000	06-09-2021
7	SUBSEQUENT PAYMENT 6	1,00,000	28-10-2021
8	TOTAL PRINCIPLE AMOUNT	90,00,000	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 6,800,000						
1	31-12-2016	31-01-2017	31		9	51,978
2	31-01-2017	28-02-2017	28		9	46,947
3	28-02-2017	28-03-2017	28		9	46,947
4	28-03-2017	28-04-2017	31		9	51,978
5	28-04-2017	28-05-2017	30		9	50,301
6	28-05-2017	28-06-2017	31	8.15	10.15 as on 01-05-2017	58,619
7	28-06-2017	28-07-2017	30	8.15	10.15 as on 01-06-2017	56,728
8	28-07-2017	28-08-2017	31	8.15	10.15 as on 01-07-2017	58,619
9	28-08-2017	28-09-2017	31	8.15	10.15 as on 01-08-2017	58,619
10	28-09-2017	28-10-2017	30	8.15	10.15 as on 01-09-2017	56,728
11	28-10-2017	28-11-2017	31	8.15	10.15 as on 01-10-2017	58,619
12	28-11-2017	28-12-2017	30	8.1	10.1 as on 01-11-2017	56,449

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13	28-12-2017	28-01-2018	31	8.1	10.1 as on 01-12-2017	58,330
14	28-01-2018	28-02-2018	31	8.1	10.1 as on 01-01-2018	58,330
15	28-02-2018	28-03-2018	28	8.1	10.1 as on 01-02-2018	52,686
16	28-03-2018	28-04-2018	31	8.35	10.35 as on 01-03-2018	59,774
17	28-04-2018	28-05-2018	30	8.35	10.35 as on 01-04-2018	57,846
18	28-05-2018	28-06-2018	31	8.35	10.35 as on 01-05-2018	59,774
19	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018	58,405
20	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018	60,352
21	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018	60,352
22	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018	59,523
23	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018	61,796
24	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018	59,802
25	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018	62,084
26	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019	62,084
27	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	56,076

28/11/19

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28	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	62,084
29	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	59,802
30	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	61,507
31	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	59,523
32	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	61,218
33	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	60,352
34	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	57,846
35	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	59,197
36	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	57,008
37	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	58,908
38	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	58,908
39	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	54,837
40	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	58,042
41	28-04-2020	28-05-2020	30	7.7	9.7 as on 10-04-2020	54,213
42	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	55,154

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43	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	51,978
44	28-07-2020	14-08-2020	17	7.3	9.3 as on 10-07-2020	29,454
INTEREST CALCULATION FOR 1 SUBSEQUENT PAYMENT 1,200,000						
1	11-01-2017	11-02-2017	31		9	9,172
2	11-02-2017	11-03-2017	28		9	8,284
3	11-03-2017	11-04-2017	31		9	9,172
4	11-04-2017	11-05-2017	30		9	8,876
5	11-05-2017	11-06-2017	31	8.15	10.15 as on 01-05-2017	10,344
6	11-06-2017	11-07-2017	30	8.15	10.15 as on 01-06-2017	10,010
7	11-07-2017	11-08-2017	31	8.15	10.15 as on 01-07-2017	10,344
8	11-08-2017	11-09-2017	31	8.15	10.15 as on 01-08-2017	10,344
9	11-09-2017	11-10-2017	30	8.15	10.15 as on 01-09-2017	10,010
10	11-10-2017	11-11-2017	31	8.15	10.15 as on 01-10-2017	10,344
11	11-11-2017	11-12-2017	30	8.1	10.1 as on 01-11-2017	9,961
12	11-12-2017	11-01-2018	31	8.1	10.1 as on 01-12-2017	10,293
13	11-01-2018	11-02-2018	31	8.1	10.1 as on 01-01-2018	10,293
14	11-02-2018	11-03-2018	28	8.1	10.1 as on 01-02-2018	9,297
15	11-03-2018	11-04-2018	31	8.35	10.35 as on 01-03-2018	10,548

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16	11-04-2018	11-05-2018	30	8.35	10.35 as on 01-04-2018	10,208
17	11-05-2018	11-06-2018	31	8.35	10.35 as on 01-05-2018	10,548
18	11-06-2018	11-07-2018	30	8.45	10.45 as on 01-06-2018	10,306
19	11-07-2018	11-08-2018	31	8.45	10.45 as on 01-07-2018	10,650
20	11-08-2018	11-09-2018	31	8.45	10.45 as on 01-08-2018	10,650
21	11-09-2018	11-10-2018	30	8.65	10.65 as on 01-09-2018	10,504
22	11-10-2018	11-11-2018	31	8.7	10.7 as on 01-10-2018	10,905
23	11-11-2018	11-12-2018	30	8.7	10.7 as on 01-11-2018	10,553
24	11-12-2018	11-01-2019	31	8.75	10.75 as on 10-12-2018	10,956
25	11-01-2019	11-02-2019	31	8.75	10.75 as on 10-01-2019	10,956
26	11-02-2019	11-03-2019	28	8.75	10.75 as on 10-02-2019	9,895
27	11-03-2019	11-04-2019	31	8.75	10.75 as on 10-03-2019	10,956
28	11-04-2019	11-05-2019	30	8.7	10.7 as on 10-04-2019	10,553
29	11-05-2019	11-06-2019	31	8.65	10.65 as on 10-05-2019	10,854
30	11-06-2019	11-07-2019	30	8.65	10.65 as on 10-06-2019	10,504

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31	11-07-2019	11-08-2019	31	8.6	10.6 as on 10-07-2019	10,803
32	11-08-2019	11-09-2019	31	8.45	10.45 as on 10-08-2019	10,650
33	11-09-2019	11-10-2019	30	8.35	10.35 as on 10-09-2019	10,208
34	11-10-2019	11-11-2019	31	8.25	10.25 as on 10-10-2019	10,446
35	11-11-2019	11-12-2019	30	8.2	10.2 as on 10-11-2019	10,060
36	11-12-2019	11-01-2020	31	8.2	10.2 as on 10-12-2019	10,395
37	11-01-2020	11-02-2020	31	8.2	10.2 as on 10-01-2020	10,395
38	11-02-2020	11-03-2020	29	8.15	10.15 as on 10-02-2020	9,677
39	11-03-2020	11-04-2020	31	8.05	10.05 as on 10-03-2020	10,242
40	11-04-2020	11-05-2020	30	7.7	9.7 as on 10-04-2020	9,567
41	11-05-2020	11-06-2020	31	7.55	9.55 as on 10-05-2020	9,733
42	11-06-2020	11-07-2020	30	7.3	9.3 as on 10-06-2020	9,172
43	11-07-2020	11-08-2020	31	7.3	9.3 as on 10-07-2020	9,478
44	11-08-2020	14-08-2020	3	7.3	9.3 as on 10-08-2020	917
INTEREST CALCULATION FOR 2 SUBSEQUENT PAYMENT 100,000						
1	23-12-2018	23-01-2019	31	8.75	10.75 as on 10-12-2018	913

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2	23-01-2019	23-02-2019	31	8.75	10.75 as on 10-01-2019	913
3	23-02-2019	23-03-2019	28	8.75	10.75 as on 10-02-2019	824
4	23-03-2019	23-04-2019	31	8.75	10.75 as on 10-03-2019	913
5	23-04-2019	23-05-2019	30	8.7	10.7 as on 10-04-2019	879
6	23-05-2019	23-06-2019	31	8.65	10.65 as on 10-05-2019	904
7	23-06-2019	23-07-2019	30	8.65	10.65 as on 10-06-2019	875
8	23-07-2019	23-08-2019	31	8.6	10.6 as on 10-07-2019	900
9	23-08-2019	23-09-2019	31	8.45	10.45 as on 10-08-2019	887
10	23-09-2019	23-10-2019	30	8.35	10.35 as on 10-09-2019	850
11	23-10-2019	23-11-2019	31	8.25	10.25 as on 10-10-2019	870
12	23-11-2019	23-12-2019	30	8.2	10.2 as on 10-11-2019	838
13	23-12-2019	23-01-2020	31	8.2	10.2 as on 10-12-2019	866
14	23-01-2020	23-02-2020	31	8.2	10.2 as on 10-01-2020	866
15	23-02-2020	23-03-2020	29	8.15	10.15 as on 10-02-2020	806
16	23-03-2020	23-04-2020	31	8.05	10.05 as on 10-03-2020	853

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17	23-04-2020	23-05-2020	30	7.7	9.7 as on 10-04-2020	797
18	23-05-2020	23-06-2020	31	7.55	9.55 as on 10-05-2020	811
19	23-06-2020	23-07-2020	30	7.3	9.3 as on 10-06-2020	764
20	23-07-2020	14-08-2020	22	7.3	9.3 as on 10-07-2020	560
INTEREST CALCULATION FOR 3 SUBSEQUENT PAYMENT 600,000						
					TOTAL DELAYED INTEREST as on 14/08/2020	29,54,699

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

12. **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/UR/201017/0006872** is hereby allowed.

- Respondent is directed to pay a sum of **Rs.29,54,699/- (Rupees Twenty Nine Lakh Fifty Four Thousand Six Hundred and Ninety Nine only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated from 31/12/2016 to 14/8/2020. The complainants are at liberty to initiate action for recovery in accordance with

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law if the respondent fails to pay the amount as per the order of this Authority.

2. To complete the project without any delay with all the amenities.
3. To handover all the project related documents, NOCs and pending works.


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

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