

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 17th NOVEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.:CMP/220426/0009385

COMPLAINANT.....

**MRS. MANJULA KUMAR
E 703, SHRIRAM SAMRUDDHI
THUBARAHALLI, VARTHUR MAIN ROAD
BANGALORE-560066.**

(In Person)

V/S

RESPONDENT....

**SHRIVISION TOWERS PRIVATE LTD
NO.40/43, 8TH MAIN, 4TH CROSS
SADASHIV NAGAR
BENGALURU-560080.**

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

J U D G E M E N T

This complaint is filed under section 31 of the RERA Act against the project **"SHRIRAM GREENFIELD PHASE-2"** developed by **"SHRIVISION TOWERS PRIVATE LIMITED"** 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 period.

2. This project has been registered under RERA bearing registration No. PRM/KA/RERA/1250/304/PR/171014/001220 valid from 10/8/2017 till 31/3/2021. The project was extended due to COVID-19 for a period of 9 months

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i.e. till 31/12/2021. On expiry of the registration validity, the Authority extended the registration for a further period of 12 months which is valid till 31/12/2022.

Brief facts of the complaint are as under:-

3. The complainant has purchased an apartment in the project of respondent by entering into an agreement for sale dated 30/4/2018 and has paid an amount of Rs.19,59,383/- as on 31/03/2021 and subsequently paid a sum of Rs.4,89,848/- on 18/6/2021, Rs.2,44,923/- on 7/8/2021, Rs.2,44,923/- on 1/10/2021, Rs.2,44,923/- on 26/11/2021 and Rs.2,44,923/- on 3/1/2022, Rs.2,44,922/- on 5/3/2022, Rs.2,44,923/- on 24/5/2022 and Rs.1,10,000/- as on 16/6/2022 i.e. in all Rs.40,28,768/- (Rupees Forty Lakh Twenty Eight Thousand Seven Hundred and Sixty Eight only) to the respondent as on 16/6/2022. As per the agreement respondent was supposed to handover the apartment on 31/03/2021 with a grace period of six months i.e. latest by 30/9/2021, but till today the respondent has not handed over the apartment to the complainant. Though more than a year has been lapsed, the respondent has failed to complete the project and deliver the possession of flat on time. The respondent has simply kept postponing the date of possession and has defaulted on terms and conditions, due to which as a buyer, the complainant has suffered monetary losses by paying rent and EMIs to Bank. 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 filed statement of objections as under:

The Respondent contends that the complainant is not entitled for seeking relief sought in light of the Agreement of Sale dated 30/04/2018 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

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zones where the apartment allotted to complainant 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.

The respondent further 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 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 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 complainant in the interest of justice and equity and to dismiss the complaint.

The complainant in her rejoinder filed before the Authority, with regard to the delay in completion of the project contends that the respondent was well aware of the NGT ruling before entering into agreement and promising the completion date of 31/3/2021 and that there was no transparency in this regard. The complainant submits that the completion of the project by

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December 2022 is very unlikely, as there are more floors to be constructed and apply for Fire NOC and occupancy certificate and hence, prayed to allow the complaint.

5. In support of their defence, the respondent has submitted copies of the Agreement for Sale, Sanctioned Plan, Order dated 4/5/2016 passed by the Hon'ble National Green Tribunal, Delhi in O.A. 222/2014, Order dated 5/3/2019 passed by the Hon'ble Supreme Court in Civil Appeal 5016/2016, maps of Bommenahalli and Bendiganahalli village depicting the lake, screenshot from Google maps depicting the location of the Project and the lake, RERA Registration & RERA extension certificates and memo of calculation as on 11/11/2022.

6. The complainant has uploaded and produced documents such as copies of Agreement of Sale, payment receipts and memo of calculation as on 31/10/2022.

7. Heard arguments of both sides.

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

1. Whether the complainant is entitled for the relief claimed?
2. What order?

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

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

REASONS

10. 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 31/3/2021 with the grace period of six months i.e. latest by 30/9/2021, the respondent has failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainant till today.



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During the process of the hearing the Authority directed the respondent to furnish information regarding the date of start of NGT litigation, date of order of Hon'ble NGT/Hon'ble Supreme Court, when the appeal was filed in the Hon'ble Supreme Court, date of sale of apartment to the complainant, 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, date of application for RERA registration.

The respondent had not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainant/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 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.

The complainant vide her memo of calculation as on 20/07/2022 has claimed an amount of Rs.3,69,135/- as delay period interest calculated from 31/3/2021 to 20/07/2022. The respondent vide his memo of calculation as on 11/11/2022 has submitted that the delay period interest payable to the complainant is Rs.2,83,861/- (calculated from 31/12/2021 till 11/11/2022). Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest **from 30/09/2021 to 31/10/2022** and later on.

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

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Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	26,94,154	30-09-2021
2	SUBSEQUENT PAYMENT 1	2,44,923	01-10-2021
3	SUBSEQUENT PAYMENT 2	2,44,923	26-11-2021
4	SUBSEQUENT PAYMENT 3	2,44,923	03-01-2022
5	SUBSEQUENT PAYMENT 4	2,44,922	05-03-2022
6	SUBSEQUENT PAYMENT 5	2,44,923	24-05-2022
7	SUBSEQUENT PAYMENT 6	1,10,000	16-06-2022
8	TOTAL PRINCIPLE AMOUNT	40,28,768	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 2,694,154						
1	30-09-2021	30-10-2021	30	7.3	9.3 as on 15-09-2021	20,593
2	30-10-2021	30-11-2021	31	7.3	9.3 as on 15-10-2021	21,280
3	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	20,593
4	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	21,280
5	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	19,907
6	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	19,220
7	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	21,280
8	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	20,815

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9	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	21,737
10	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	21,479
11	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	22,424
12	28-08-2022	28-09-2022	31	8	10.0 as on 15-08-2022	22,881
13	28-09-2022	28-10-2022	30	8	10.0 as on 15-08-2022	22,143
14	28-10-2022	31-10-2022	3	8	10.0 as on 15-08-2022	2,214
INTEREST CALCULATION FOR 1,2,3,5 SUBSEQUENT PAYMENT 244,923						
1	01-10-2021	01-11-2021	31	7.3	9.3 as on 15-09-2021	1,934
2	01-11-2021	01-12-2021	30	7.3	9.3 as on 15-10-2021	1,872
3	26-11-2021	26-12-2021	30	7.3	9.3 as on 15-11-2021	1,872
4	01-12-2021	01-01-2022	31	7.3	9.3 as on 15-11-2021	1,934
5	26-12-2021	26-01-2022	31	7.3	9.3 as on 15-12-2021	1,934
6	01-01-2022	01-02-2022	31	7.3	9.3 as on 15-12-2021	1,934
7	03-01-2022	03-02-2022	31	7.3	9.3 as on 15-12-2021	1,934
8	26-01-2022	26-02-2022	31	7.3	9.3 as on 15-01-2022	1,934
9	01-02-2022	01-03-2022	28	7.3	9.3 as on 15-01-2022	1,747

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10	03-02-2022	03-03-2022	28	7.3	9.3 as on 15-01-2022	1,747
11	26-02-2022	26-03-2022	28	7.3	9.3 as on 15-02-2022	1,747
12	01-03-2022	01-04-2022	31	7.3	9.3 as on 15-02-2022	1,934
13	03-03-2022	03-04-2022	31	7.3	9.3 as on 15-02-2022	1,934
14	26-03-2022	26-04-2022	31	7.3	9.3 as on 15-03-2022	1,934
15	01-04-2022	01-05-2022	30	7.3	9.3 as on 15-03-2022	1,872
16	03-04-2022	03-05-2022	30	7.3	9.3 as on 15-03-2022	1,872
17	26-04-2022	26-05-2022	30	7.4	9.4 as on 15-04-2022	1,892
18	01-05-2022	01-06-2022	31	7.4	9.4 as on 15-04-2022	1,955
19	03-05-2022	03-06-2022	31	7.4	9.4 as on 15-04-2022	1,955
20	24-05-2022	24-06-2022	31	7.5	9.5 as on 15-05-2022	1,976
21	26-05-2022	26-06-2022	31	7.5	9.5 as on 15-05-2022	1,976
22	01-06-2022	01-07-2022	30	7.5	9.5 as on 15-05-2022	1,912
23	03-06-2022	03-07-2022	30	7.5	9.5 as on 15-05-2022	1,912
24	24-06-2022	24-07-2022	30	7.7	9.7 as on 15-06-2022	1,952

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25	26-06-2022	26-07-2022	30	7.7	9.7 as on 15-06-2022	1,952
26	01-07-2022	01-08-2022	31	7.7	9.7 as on 15-06-2022	2,017
27	03-07-2022	03-08-2022	31	7.7	9.7 as on 15-06-2022	2,017
28	24-07-2022	24-08-2022	31	7.8	9.8 as on 15-07-2022	2,038
29	26-07-2022	26-08-2022	31	7.8	9.8 as on 15-07-2022	2,038
30	01-08-2022	01-09-2022	31	7.8	9.8 as on 15-07-2022	2,038
31	03-08-2022	03-09-2022	31	7.8	9.8 as on 15-07-2022	2,038
32	24-08-2022	24-09-2022	31	8	10.0 as on 15-08-2022	2,080
33	26-08-2022	26-09-2022	31	8	10.0 as on 15-08-2022	2,080
34	01-09-2022	01-10-2022	30	8	10.0 as on 15-08-2022	2,013
35	03-09-2022	03-10-2022	30	8	10.0 as on 15-08-2022	2,013
36	24-09-2022	24-10-2022	30	8	10.0 as on 15-08-2022	2,013
37	26-09-2022	26-10-2022	30	8	10.0 as on 15-08-2022	2,013
38	01-10-2022	31-10-2022	30	8	10.0 as on 15-08-2022	2,013
39	03-10-2022	31-10-2022	28	8	10.0 as on 15-08-2022	1,878

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40	24-10-2022	31-10-2022	7	8	10.0 as on 15-08-2022	469
41	26-10-2022	31-10-2022	5	8	10.0 as on 15-08-2022	335
INTEREST CALCULATION FOR 4 SUBSEQUENT PAYMENT 244,922						
1	05-03-2022	05-04-2022	31	7.3	9.3 as on 15-02-2022	1,934
2	05-04-2022	05-05-2022	30	7.3	9.3 as on 15-03-2022	1,872
3	05-05-2022	05-06-2022	31	7.4	9.4 as on 15-04-2022	1,955
4	05-06-2022	05-07-2022	30	7.5	9.5 as on 15-05-2022	1,912
5	05-07-2022	05-08-2022	31	7.7	9.7 as on 15-06-2022	2,017
6	05-08-2022	05-09-2022	31	7.8	9.8 as on 15-07-2022	2,038
7	05-09-2022	05-10-2022	30	8	10.0 as on 15-08-2022	2,013
8	05-10-2022	31-10-2022	26	8	10.0 as on 15-08-2022	1,744
INTEREST CALCULATION FOR 6 SUBSEQUENT PAYMENT 110,000						
1	16-06-2022	16-07-2022	30	7.7	9.7 as on 15-06-2022	876
2	16-07-2022	16-08-2022	31	7.8	9.8 as on 15-07-2022	915
3	16-08-2022	16-09-2022	31	8	10.0 as on 15-08-2022	934
4	16-09-2022	16-10-2022	30	8	10.0 as on 15-08-2022	904

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5	16-10-2022	31-10-2022	15	8	10.0 as on 15-08-2022	452
					TOTAL DELAYED INTEREST as on 31/10/2022	3,74,122

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

13. **My answer to point No.2:-** In view of the above discussion, I proceed to pass the following

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/220426/0009385** is hereby allowed. Respondent is directed to pay a sum of Rs.3,74,122/- (Rupees Three Lakh Seventy Four Thousand One Hundred and Twenty Two only) towards delay period interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 30/09/2021 to 31/10/2022 and later on. The interest accruing from 01/11/2022 till the date of final payment will be calculated likewise and paid to the complainant. Failing which, the complainant is 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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