

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 28TH NOVEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/200914/0006580

COMPLAINANT.....

**MR. MANISH KUMAR AGARWAL
C/O SHREE RAMA COLOUR CO
TODARMAL LANE
BHAGALPUR - 812002
DISTRICT: BHAGALPUR
STATE: BIHAR**

**PRESENTLY RESIDING AT
FLAT NO.411, ARJUN AURA APARTMENT
VIJAYA BANK LAYOUT
BILEKAHALLI
BANGALORE-560076.**

(By Sri.Abheek Saha, Advocate)

Vs

RESPONDENT.....

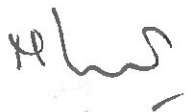
**SHRIVISION TOWERS PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.**

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

*** * * * ***

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, Bommenahalli Village, Bidarahalli Hobli,



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

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.

Brief facts of the complaint are as under:-

3. The complainant had purchased an apartment C-1206 in the project of respondent and entered into an agreement of sale on 22/06/2018 and has paid an amount of Rs.59,36,932/- (Rupees Fifty Nine Lakh Thirty Six Thousand Nine Hundred and Thirty Two only) to the respondent as on 31/3/2019. The respondent was supposed to hand over the possession of the flat to the complainant by 31/03/2019 with the grace period of six months i.e. by 30/9/2019. The respondent did not complete the project on time. The complainant submits that he is not in possession of the apartment and that the complainant learnt that the title of land is not clear and there is a litigation pending in 3rd Addl. Senior Civil Judge Court at Bengaluru Rural vide O.S.No.474/2018. The respondents had never disclosed about this pending litigation in the court to the complainant. The complainant submits that the occupancy certificate has been received by the respondent on 1/8/2019 from the Mundur Village Panchayat, whereas the development plan for the project was sanctioned by Hoskote Planning Authority. The complainant submits that even after more than one year, the respondents have not completed the construction and handed over the possession of the apartment as agreed. There is no negligence, fault or delay on part of the complainant in making payments to the respondent till date. The complainant is presently staying in a rented apartment apart from paying EMIs every month for the apartment purchased from 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

respondent. The complainant pray before this Authority to direct the respondent to complete the construction, handover physical possession of the apartment with occupancy certificate, completion certificate from the competent authorities and pay interest on delay period till today. 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 22/06/2018 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. 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 he continues to remain committed to delivering the possession to its customers on time. The Occupancy Certificate in fact was received from the Competent Authority i.e. from Mandur Village Panchayat office on 1/8/2019, which was duly intimated to the complainant through email dated 15/10/2019 to the effect that the process for the registration of the property will be scheduled shortly. The complainant was also requested to furnish KYC details and copy of the Aadhaar Card for preparing the Sale Deed for registration. However, the complainant did not respond to his mails. The respondent also sent Demand Note seeking remittance of balance amount through email dated 1/2/2020 as the complainant had to pay the balance sale consideration along with other dues as per agreement of sale to the tune of Rs.3,20,367/-. Regarding the litigation pending before the III Additional Senior Civil Judge, Bangalore Rural District Court, the respondent submits that in the interest of the project, the

MS

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

parties to the suit have filed the Memorandum of Compromise Petition before the court to decree the suit in accordance with the Compromise Petition and the case is posted to 31/3/2020. The respondent assures that they will stand with owners to clear any dispute related to title, land or any other issues pertaining to the above case in future. The respondent has further submitted that the matter was taken up before the Lok Adalath on 25/6/2022 and the joint memo filed by the plaintiff and defendants was accepted, and the suit came to be decreed. Though the respondent was not inclined to hand over the possession of the apartment without receiving the balance amount due from the complainant, the respondent, on the request put forth by the complainant and on the confirmation that the complainant will co-operate and endeavor to fulfill his obligations to complete the process of registration of the Sale Deed and pay balance amount due along with the maintenance charges within a period of 15 days, handed over the possession of the said apartment to the complainant on 21/2/2020 on humanitarian grounds under acknowledgement for conditional possession. The complainant has also signed an acknowledgement in the form of a possession letter for the conditional handover of the apartment and agreed that the formal possession of the unit would be processed upon the execution and registration of the Sale Deed. The complainant was also requested to furnish KYC details and copy of Aadhaar Card to prepare the sale deed through email dated June 21, 2022 and to come forward for executing and registering the Sale Deed. Despite communications sent by the respondent, the complainant failed to come forward to register the Sale Deed in respect of the said Apartment, instead the complainant chose to file a complaint before this Hon'ble Authority seeking compensation on groundless allegations and continuing the delay of registration of Sale Deed. For the deliberate delay caused by the complainant, the respondent has filed a memo seeking holding charges and delay interest on the balance amount to be paid by the complainant as per section 19(10) of the RERA Act which clearly states that every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period

HL

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

of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be. The respondent most respectfully deny the entire allegations of the complainant and pray not to grant the relief sought by them in the interest of justice and equity and to dismiss the complaint.

6. In support of their defence, the respondent has submitted copies of the Agreement of Sale dated 22/4/2015, construction agreement dated 22/4/2015, RERA registration and extension certificates, Occupancy Certificate dated 1/8/2019, complainant's acknowledgement for conditional possession dated 21/2/2020, email correspondences sent to the complainant and memo of calculation as on 13/10/2022.

7. In support of their claim, the complainant has produced documents such as copies of Agreement of Sale, Construction Agreement, Allotment letter dtd 19/11/2014, Demand Notes from Respondent, Customer statement of account dated 20/4/2020 issued by the respondent showing details of the payment received from the complainant, Payment Receipts, email correspondences between the complainant and 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:-

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

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

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

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

REASONS

11. My answer to Point No.1:- From the materials placed on record, it is apparent that as per agreement for sale the respondent was supposed to handover the apartment by 31/03/2019 with the grace period of six months i.e. latest by 30/9/2019 to the complainant. The respondent received Occupancy Certificate on 01/08/2019 from the competent authority i.e. Mundur Village Panchayat and informed the complainant accordingly through an email dated 15/10/2019. The respondent also sent a final demand note on 1/2/2020 to pay the balance amount of Rs.3,20,367/-. It is also evident from the written submission submitted by the respondent that an email communication dated 21/6/2022 requesting the complainant to come forward for execution and registration of the apartment. Despite which, the complainant neither paid the balance amount due to the respondent nor came forward to execute and register the Sale Deed in respect of his apartment. During the process of the hearing, the Authority has noticed that there has been a deliberate delay on the part of the complainant in executing and registering the Sale Deed, despite intimation received from the respondent. ***Having regard to all these aspects, this Authority concludes that the complainant is not entitled for interest on delay period interest as claimed by him, and the complaint deserves to be DISMISSED.***

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

13. 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/200914/0006580 ***is hereby DISMISSED.***

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. The complainant is directed to pay the balance amount due to the respondent and execute/register the Sale Deed without any further delay/loss of time.
2. The complainant is liable to pay interest as per section 19(7) of the RERA Act, 2016 on the balance amount of Rs.3,20,367/- due to the respondent calculated at MCLR + 2% from 15/10/2019 to till date.


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

NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY