

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/200101/0005058

COMPLAINANT.....

**MR. GANGIREDDY PATURU
NO.9/384-5, YERRABALLI
OPPOSITE TO MANNUR POLICE STATION
RAJAMPET - 516115.
DISTRICT: KADAPA
STATE: ANDHRA PRADESH**

**(BY MR.K. ARAVINDAN, ADVOCATE
AVR ASSOCIATES & OTHERS)**

V/S

RESPONDENT.....

**M/S. ARV INFRASTRUCTURES
REPRESENTED BY ITS PARTNERS
A)MR.D. AMARANADHA REDDY
B)MR.K. RAMALINGA REDDY
C)MR.V. VEERA REDDY
PARTNERS
NO.728, V.T. KANAKARAJA BUILDING
26TH CROSS, GUNJUR MAIN ROAD
OPP: VARTHUR GOVERNMENT HOSPITAL
BANGALORE-560087.**

(BY MS. SARITHA, ADVOCATE)

*** * * * ***

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project
"ARV TEMPLE TREE" developed by M/S. ARV INFRASTRUCTURES on

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Sy.No.12/1A1, 12/2A1, Narayanappa Garden, Whitefield Main Road, Bengaluru – 560 066 for the relief of interest on delay.

2. The project has commenced on 25/11/2014. Later, on establishment of Karnataka Real Estate Regulatory Authority, this project has been registered under RERA bearing Registration No. PRM/KA/RERA/1251/446/PR/180328/001650 valid from 30-08-2017 to 31/12/2017.

Brief facts of the complaint are as under:-

3. The complainant had booked an apartment in the project of the respondent and entered into an agreement of sale and agreement of construction on 06/06/2014 and has paid an amount of Rs.55,21,091/- (Rupees Fifty Five Lakh Twenty One Thousand and Ninety One only) to the respondent as on 31/5/2016. The respondent was supposed to hand over the possession of the flat to the complainant by February 2016 with the grace period of three months i.e. by 31/05/2016. Even after 43 months, the respondent has not completed the project and have not executed and registered sale deed. Whenever the complainant has approached the respondent for handing over possession of the apartment, the respondent assures that they are waiting for occupancy certificate and that once it is received they will deliver possession and execute sale deed in favour of the complainant. The respondent has also not completed the following works like Cauvery water connection for all flats, club house with gymnasium, swimming pool, children's play area, badminton court, mini-basket ball court, CCTV installation, intercom facility, compound wall, painting, STP, pathway, rain water harvesting and to furnish commencement certificate and occupancy certificate besides execution and registration of sale deed. The complainant submits that he has paid an excess amount of Rs.4,45,591/- to the respondent which has to be refunded. The complainant prays before this Authority to direct the respondent to complete the pending works, handover possession of the

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apartment with occupancy certificate, completion certificate from the competent authorities, refund of excess amount paid towards purchase of the flat and pay interest on delay period till today. Hence, this complaint.

4. After registration of the complaint, despite several notices, the respondent did not appear before the Authority either through its counsel nor his representative and has filed statement of objections or produced any documents on its behalf. Hence, summons was sent to respondent which was received by them on 16/10/2022. Advocate for respondent appeared for hearing on 20/10/2022 and submitted memo of appearance and gave an undertaking that vakalat will be filed during the next hearing. The respondent remained absent for the subsequent hearing too.

5. In support of his claim, the complainant has submitted copies of the Agreement of Sale dated 6/6/2014, construction agreement dated 6/6/2014, Payment receipts and memo of calculation as on 01/09/2022.

6. Heard arguments of both sides.

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

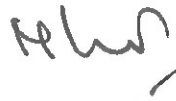
1. Whether the complainant is entitled for the relief claimed?
2. What order?

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:-** It is undisputed that the respondent has failed to handover possession of the apartment to the complainant herein within agreed time even after receiving entire sale consideration amount. As per the terms of



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agreement of sale and construction between the parties, the possession of the apartment had to be handed over before the end of February 2016 with a grace period of three months i.e. latest by 31/5/2016. When the respondent has failed to handover possession as agreed by them, the complainant has approached this forum for direction to the respondent for speeding up the pending works, handover possession of the apartment along with commencement certificate, occupancy certificate, execution and registration of sale deed and to pay interest on delay period. The Authority has noticed that despite several notices were sent to the respondent, they failed to appear before the Authority for hearing either through their representative or counsel. On receipt of summons, an Advocate appeared with memo of appearance on its behalf, but the Advocate failed to appear before the Authority though the advocate was aware of the fact that a last opportunity was given to them to present their argument/submit documents, if any. **Having regard to all these aspects, this Authority concludes that the complainant is entitled for interest on delay period as claimed by him vide his memo of calculation dated 01/09/2022.**

10. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainant has already paid full 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 43 months, certainly entitles the complainant herein for delay period interest. The complainant has claimed Rs.33,79,170/- (Rupees Thirty Three Lakh Seventy Nine Thousand One Hundred and Seventy only) as delay period interest vide his memo of calculation as on 01/09/2022 calculated from 31/5/2016 to 01/09/2022. Though enough opportunities were given, the respondent has not filed its memo of calculation.

11. In addition to the delay period interest, the complainant has prayed for refund of Rs.4,45,591/- being excess amount paid to the respondent towards the

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purchase of the flat. This amount has already been claimed with interest in the memo of calculation dated 01/09/2022. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest calculated from 31/5/2016 to 01/09/2022.

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			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	55,21,091	31-05-2016

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,521,091						
1	31-05-2016	30-06-2016	30		9	40,840
2	30-06-2016	30-07-2016	30		9	40,840
3	30-07-2016	30-08-2016	31		9	42,202
4	30-08-2016	30-09-2016	31		9	42,202
5	30-09-2016	30-10-2016	30		9	40,840
6	30-10-2016	30-11-2016	31		9	42,202
7	30-11-2016	30-12-2016	30		9	40,840
8	30-12-2016	30-01-2017	31		9	42,202
9	30-01-2017	28-02-2017	29		9	39,479
10	28-02-2017	28-03-2017	28		9	38,118
11	28-03-2017	28-04-2017	31		9	42,202
12	28-04-2017	28-05-2017	30		9	40,840
13	28-05-2017	28-06-2017	31	8.15	10.15 as on 01-05-2017	47,594
14	28-06-2017	28-07-2017	30	8.15	10.15 as on 01-06-2017	46,059

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15	28-07-2017	28-08-2017	31	8.15	10.15 as on 01-07-2017	47,594
16	28-08-2017	28-09-2017	31	8.15	10.15 as on 01-08-2017	47,594
17	28-09-2017	28-10-2017	30	8.15	10.15 as on 01-09-2017	46,059
18	28-10-2017	28-11-2017	31	8.15	10.15 as on 01-10-2017	47,594
19	28-11-2017	28-12-2017	30	8.1	10.1 as on 01-11-2017	45,832
20	28-12-2017	28-01-2018	31	8.1	10.1 as on 01-12-2017	47,360
21	28-01-2018	28-02-2018	31	8.1	10.1 as on 01-01-2018	47,360
22	28-02-2018	28-03-2018	28	8.1	10.1 as on 01-02-2018	42,777
23	28-03-2018	28-04-2018	31	8.35	10.35 as on 01-03-2018	48,532
24	28-04-2018	28-05-2018	30	8.35	10.35 as on 01-04-2018	46,967
25	28-05-2018	28-06-2018	31	8.35	10.35 as on 01-05-2018	48,532
26	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018	47,420
27	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018	49,001
28	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018	49,001
29	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018	48,328

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30	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018	50,173
31	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018	48,555
32	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018	50,408
33	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019	50,408
34	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	45,530
35	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	50,408
36	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	48,555
37	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	49,939
38	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	48,328
39	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	49,704
40	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	49,001
41	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	46,967
42	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	48,063
43	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	46,286
44	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	47,829

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45	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	47,829
46	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	44,524
47	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	47,125
48	28-04-2020	28-05-2020	30	7.7	9.7 as on 10-04-2020	44,017
49	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	44,781
50	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	42,202
51	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	43,609
52	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	43,609
53	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	42,202
54	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	43,609
55	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	42,202
56	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	43,609
57	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	43,609
58	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	39,388
59	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	43,609

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60	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	42,202
61	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	43,609
62	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	42,202
63	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	43,609
64	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	43,609
65	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	42,202
66	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	43,609
67	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	42,202
68	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	43,609
69	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	43,609
70	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	39,388
71	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	43,609
72	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	42,656
73	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	44,546
74	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	44,017

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75	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	45,953
76	28-08-2022	01-09-2022	4	8	10.0 as on 15-08-2022	6,050
					TOTAL DELAYED INTEREST as on 01/09/2022	33,79,170

13. Accordingly, the 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/UR/200101/0005058** is hereby allowed. Respondent is directed to pay a sum of **Rs.33,79,170/- (Rupees Thirty Three Lakh Seventy Nine Thousand One Hundred and Seventy only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated at 9% from 31/05/2016 to 30/4/2017 and MCLR + 2% from 01/05/2017 till 01/09/2022. The interest due from 02/09/2022 up to the date of final payment will be calculated likewise and paid to the complainant. 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, KRERA