

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 19TH DECEMBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220209/0008994

COMPLAINANTS.....

**MR. SURESH TURKANI &
MRS. SHILPA TURKANI
005, INDUS INNOVA APARTMENT
B. NARAYANAPURA
MAHADEVAPURA MAIN ROAD
MAHADEVAPURA
BANGALORE-560048.**

(IN PERSON)

Vs

RESPONDENT.....

**RAJA HOUSING LIMITED
F-2, RAJA MAHALAKSHMI
NO.12, BASAPPA ROAD
SHANTHINAGAR
BANGALORE-560027.**

**(By Mr.N. Mallikarjuna &
Mrs. Vidya, 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 "**RAJA RITZ AVENUE PHASE-I**" developed by **RAJA HOUSING LTD** on Sy.No.184 and 185/1, Khata No.1088, Hoodi Village, K.R.Puram Hobli, Bangalore East, Bangalore Urban for the relief of interest on delay.

2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/446/PR/171028/001242 valid till 31/01/2021.

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The project was extended due to Covid-19 for a period of 9 months till 31/10/2021.

Brief facts of the complaint are as under:-

3. The complainants had purchased an apartment No.001, Ground Floor, Block-6 in the project of the respondent and entered into an agreement of sale on 06/04/2021 and has paid an amount of Rs.75,30,923/- (Rupees Seventy Five Lakh Thirty Thousand Nine Hundred and Twenty Three only) to the respondent. The respondent was supposed to hand over the possession of the flat to the complainants by 31/10/2021, but the respondent has not handed over the flat to the complainants till date. The complainants have not got the possession of the flat till today, though the completion date is over. The respondent is not giving clarity on completion of the project because of which the complainants are put to financial loss and mental agony. The complainants are entitled for interest on delay period till the handing over of the possession of the apartment by the respondent. Even after repeated communication, there is no response from the respondent. The respondent is neither answering the calls nor replying the emails sent by the complainants. Thus, the complainants have approached this Authority and prays that no further extension should be granted to the builder and direct the respondent to ensure delivery of the flat immediately along with delay period compensation. 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 it entered into JDA with the land owner and has developed the property and the entire cost of construction of the



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apartment had to be borne solely and has invested huge amount borrowed from financial institutions which has to be repaid along with interest. The project commenced in 2018 and the respondent entered into an agreement of sale with the home buyers in the form of investors who came forward to purchase the apartments. The investment of the customers automatically terminates on execution of registered sale deed in their favour. The respondent agrees that the possession of the apartment was to be handed over to the complainants within January 2021 and also paying delay period interest to the customers who continue to stay in the project at SBI MCLR + 2% existing on the date of execution and registration of agreement of sale till the possession of the apartment is handed over to the complainants. The agreement of sale dated 20/5/2019 was subjected to force majeure clause. The respondent submits that the delay in completion of the project was due to force majeure conditions such as, scarcity of raw materials, non-availability of skilled labourers, 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 wilful 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 further submits that the project is completed and several units/flats have been registered and occupied by the residents and outsource maintenance team is looking after the maintenance of the building, BESCOM has sanctioned power supply and is functional since August 2022. The respondent submits that they have applied for water supply from BWSSB and paid all requisite fees to the Authority, till such

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time the respondent has arranged temporary water supply through borewells and external source for the use of residents.

6. The respondent has also submitted Occupancy Certificate (Partial) dated 18/11/2022 issued by BBMP, Bangalore and that all the allottees of Raja Ritz Avenue Phase-I can proceed with the registration and take possession of their flats. The respondent contends that out of 28 complaints filed before this Authority seeking delay period interest, 16 have been withdrawn as the respondent has paid delay period interest to the complainants and settled the dispute with mutual consent. The respondent also contends that they are in receipt of possession request and unit registration from the complainants and that calculations of registration charges along with delay period interest have been sent to them and are waiting for their response. Hence, prayed to dismiss the complaint.
7. In support of their defence, the respondent has submitted copy of the Agreement of Sale, Occupancy Certificate (Partial) dated 18/11/2022.
8. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale, payment receipts, email correspondence with the respondent and memo of calculation as on 23/07/2022.
9. Heard arguments of both sides.
10. **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?
11. **My answer to the above points are as under:-**
 - a. In the Affirmative.
 - b. As per final order for the following

Hlw,

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REASONS

12. **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 between the parties, the possession of the apartment had to be handed over before the end of October 2021 i.e. latest by 31/10/2021. The complainants have approached this forum for direction to the respondent for speeding up the construction, handover possession of the apartment and to pay interest on delay period.
13. 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 failure to keep up promise to handover possession of the apartment even after the completion date of the project is over, certainly entitles the complainants herein for delay period interest. The complainants have claimed Rs.5,12,406/- (Rupees Five Lakh Twelve Thousand Four Hundred and Six only) as delay period interest vide their memo of calculation as on 23/07/2022 calculated from 31/10/2021 to 23/07/2022. Despite several opportunities was given, the respondent has not filed its memo of calculation. The respondent has submitted copy of the Occupancy Certificate (Partial) dated 18/11/2022 to the Authority and have committed themselves to execute the registration of the Sale Deed and pay delay period interest to the complainants vide their written submission dated 15/12/2022. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/10/2021 to 23/07/2022.



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14. 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	75,30,293	31/10/2021

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 75,30,293						
1	31/10/2021	30/11/2021	30	7.3	9.3 as on 15-10-2021	57,560
2	30/11/2021	30/12/2021	30	7.3	9.3 as on 15-11-2021	57,560
3	30/12/2021	30/01/2022	31	7.3	9.3 as on 15-12-2021	59,478
4	30/01/2022	28/02/2022	29	7.3	9.3 as on 15-01-2022	55,641
5	28/02/2022	28/03/2022	28	7.3	9.3 as on 15-02-2022	53,722
6	28/03/2022	28/04/2022	31	7.3	9.3 as on 15-03-2022	59,478
7	28/04/2022	28/05/2022	30	7.4	9.4 as on 15-04-2022	58,179
8	28/05/2022	28/06/2022	31	7.5	9.5 as on 15-05-2022	60,758
9	28/06/2022	23/07/2022	25	7.7	9.7 as on 15-06-2022	50,030
					TOTAL DELAYED INTEREST as on 23/07/2022	5,12,406

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

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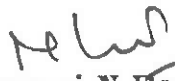
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16. **My answer to Point No.2:-** In view of the above discussion, I proceed to pass the following order –

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/220209/0008994** is hereby allowed. Respondent is directed:-

1. to pay a sum of **Rs.5,12,406/- (Rupees Five Lakh Twelve Thousand Four Hundred and Six only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 31/10/2021 till 23/07/2022. The interest due from 24/07/2022 up to the date of final payment will be calculated likewise and paid to the complainants. 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.
2. to speed up the process of registration and execute the Sale Deed in favour of the complainants immediately.
3. the complainants are directed to pay the balance outstanding, if any, to the respondent immediately and execute the sale deed registered. In case of any delay on their part, the complainants will not be entitled for any interest on delay period from the date of receipt of definite communication along with date fixed for registration from the respondent.


(Neelmani N Raju)
Member, K-RERA

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