

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**

**Dated 29<sup>th</sup> December 2022**

**Complaint No. CMP/200707/0006125**

**COMPLAINANT....**

**Subhayan Saha**  
Flat No. A-1804, Shriram  
Greenfield  
Bommenahalli Village  
Off: Budigere Cross  
Bengaluru Rural

**(In person)**

**V/S**

**RESPONDENT.....**

**M/s Shrivision Towers  
Private Limited**  
No: 40/43, 8<sup>th</sup> Main  
4<sup>th</sup> Cross,  
Sadashivnagar  
Bengaluru-560 080.

**(By Mr. Joseph Anthony,  
(Advocate)**

**JUDGEMENT**

1. The aforesaid complainant has filed this complaint under section 31 of the RERA Act against the project "**Shriram Green Field Phase-1**" developed by respondent promoter of "**M/s Shrivision Towers Private Limited**" and sought for the relief of constructional defects,

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multiple cracks in the wall resulting in seepage and compensation for damage.

2. The promoter has developed this project in the limits of Sy.Nos. 73/1, 73/2A, 74(P) and 81, Bommenahalli Village, Bidarahalli Hobli earlier Hoskote taluk, presently Bengaluru East Taluk, Bengaluru.
3. This project has been registered in RERA bearing registration no. PRM/KA/RERA/1250/304/PR/171014/1213.
4. **Brief facts of the case:** The complainant, had entered into an agreement of sale and construction both dated **6.4.2015** with the respondent for the purchase of an apartment bearing no. **A-1804 in Tower-A of building-1** in the project "**Shriram Green Field Phase-1**". It is contended that cracks have developed in the apartment in 4 different places both inside and outside due to which water is seeping during rains and as a result expensive premium paints got washed off. Further, there are lot of cracks in the common areas. He is in touch with the builder on multiple occasions ever since he took possession but the respondent did not respond. The complainant sought for the relief of constructional defects and compensation for damage. Hence, this complaint.
5. After registration of the complaint, in pursuance of notice, the respondent has appeared before the Authority through its counsel and filed statement of objections as under:
6. The respondent has denied all the allegations made against it by the complainant as false. It is contended that the respondent had entered

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14/11/20

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into an agreement of sale and construction both dated 6.4.2015 with the complainant for purchase of apartment bearing No.A-1804 in Tower-A of building-1 in the project **Shriram Green Field Phase-1** situated at Sy.Nos. 73/1, 73/2A, 4(P) and 81, Bommenahalli Village, Bidarahalli Hobli, Bengaluru East Taluk, Bengaluru. Further, the respondent has also executed sale deed in favour of the complainant on 24.2.2020.

7. It is contended that the issue raised in the complaint pertains to mere water seepage in the schedule apartment which does not come under the ambit of structural defect. Further, the complainant himself has nowhere alleged the existence of a structural defect in the captioned complaint. Further, such issues of water leakage falls under the defect liability clause 8 of the construction dated 6.4.2015.
8. It is apparent from the available records that the respondent has already taken initiative to carry out repair works in order to address the rain water seepage. A consumer complain form was accordingly signed and acknowledged by the respondent on 20.9.2021 wherein it has been recorded that the complainant's complaint has been addressed.
9. It is contended that the respondent has obtained a structural stability certificate as directed by this Authority besides he has obtained occupancy certificate dated 1.8.2019 from the Mandoor Gram Panchayat for the said project. Hence prays to dismiss the complaint.







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10. Further, the respondent has filed memo dated 13.7.2022 and produced the following documents:

- (a) report of the Internal Engineer of the respondent company vide email dated 12.12.2022
- (b) photographs depicting the repair works carried out to address the issues raised by the complainant.

**Summary of the report as under:**

(i) "Issue of dampness near window in the room of Flat A 1804"

**Procedure followed, attended and issue rectified:** The window has been removed in all aspects. The outside sill has been done grinding to enable to give slope towards outside. The water proofing materials have been applied on all corners of window sides, fixed the window. The polysulphide sealant has been applied around the window frames i.e. corners including on screw joints.

(ii) **Dampness on utility sealing:** The source of dampness is through utility floor of apartment 1904 which is just above the apartment A-1804. It is observed that the customer A-1904 has used acid for cleaning the floor instead of soft detergents or floor cleaners due to which earlier epoxy in the joint has given away.

**Procedure followed, attended and issues rectified:** The tile joints have been grouted with epoxy. The granite threshold edges have been sealed with epoxy grout. The dampness is in initial stage, sealed all the tile joints with epoxy grout.

As regards to minor hair line issues on internal walls, the allottee has a small baby and has requested them to carry out the work later at the point when the customer family is not available in the apartment.

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11. In support of his claim, the complainant has produced documents such as (1) sale deed dated 6.4.2015 (2) copy of allotment letter (3) completion certificate (4) occupancy certificate.

12. In support of his defence, the respondent has produced documents such as (1) copies of agreement of sale and construction both dated 6.4.2015 (2) copy of sale deed dated 24.2.2020. (3) copy of sonsumer complain form filed before the RARA on 4.1.2022 (4) copy of structural stability certificate (5) copy of occupancy certificate.

13. Heard both the parties. This matter was heard on 17/9/2021, 4/2/2022, 18/5/2022, 13/7/2022 and finally on 30.11.2022.

14. On the above averments, the following points would arise for the consideration of the Authority.

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

15. Our findings on the above points are as under:

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

**FINDINGS**

**16. Our findings on point no.1:** The grievance of the complainant is that cracks have been developed in the apartment walls at various places due







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to which water seeping in when it rained. Further, the complainant claimed that expensive paints got washed off due to the said seepage. The submission of the respondent that the earlier complaint on the seepage has been addressed satisfactorily is incorrect. The apartment has developed four major cracks.

It is pertinent to note that the aforesaid project consists of 935 residential units and that the complainant is the only apartment owner who has filed a complaint pertaining to seepage of water which has been erroneously classified as a structural defect. The complainant himself has nowhere alleged the existence of a structural defect in the captioned complaint.

It is apparent from the records that the complainant has filed the instant complaint dated 7.7.2020 after registration of sale deed. The respondent has already taken initiative to carry out repair works in order to address the rain water seepage that the complainant has faced. A consumer form was accordingly signed and acknowledged by the respondent on 20.9.2021 wherein it has been recorded that the complainant's complaint has been addressed.

From the averments of the complaint and the copies of agreement between parties, it is obvious that the complainant has been addressed sufficiently and there exists no further grounds for the complainant to continue with the complaint. Accordingly, the point raised above is answered in the Negative.

As regards compensation for the damages claimed by the allottee, the complainant is at liberty to file a fresh complaint before the Adjudicating

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Officer who is empowered to adjudge the compensation for damages under the provisions of the Act.

**17. Our findings on point no.2:** In view of the above discussions, we proceed to pass the following order.

**ORDER**

In exercise of the powers conferred under section 31 of the Real Estate(Regulation & Development) Act, the complaint bearing no. **CMP/200707/0006125** is hereby dismissed.

No order as to costs.

  
(Neelmani N. Raju)  
Member  
K-RERA

  
(G.R. Reddy)  
Member  
K-RERA

  
(H.C. Kishore Chandra)  
Chairman  
K-RERA

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