

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY,
BENGALURU**

FIFTH ADDITIONAL BENCH

PRESENT

**SHRI.G.R. REDDY
HON'BLE MEMBER**

COMPLAINT NO.CMP/210615/0007909

DATED THIS 30th DAY OF JANUARY, 2023

COMPLAINANTS : MR.ABHISHEK SAINI
A126, GM Infinite Ecity Town
Thirupalya Road, Neotown
Electronic City Phase-1
Bangalore : 560 100

Party in Person

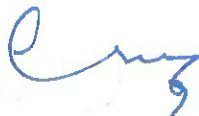
RESPONDENT / : M/s.Shriram Properties Pvt Ltd.
PROMOTER No.40/43, 8th Main, 4th Cross,
Sadashiv Nagar, Bengaluru:560080

By Mr.Bharath, Authorised Rep. &
Others, JSM Law Partners

PROJECT NAME & : SHRIRAM SUMMITT
REGISTRATION NO. PRM/KA/RERA/1251/308/PR/
171015/001121

J U D G E M E N T

This complaint is filed under Sec-31 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project SHRIRAM SUMMITT praying for a direction to Respondents to pay delay period interest:



BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

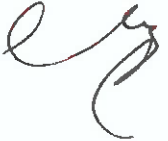
1. The complainants have entered into an agreement of sale on 21.12.2017. The project completion date as per agreement was 31.12.2019. The complainants have paid an amount of Rs.42,87,089/- (Rupees Fourty two lakhs Eighty seven thousand eighty nine only) to the respondent till the date of complaint. Since there was delay of more than two years in handing over the apartment, the complainants have filed the above complaint before the Authority praying for the following reliefs:

a) Direct the Respondents to pay delay period interest

2. On a perusal of the sale agreement, it is seen that the completion date is agreed as 31.12.2019. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.12.2019. In cases where in the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee, this complaint is admissible for relief in accordance with Section 18 of the Act.

3. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and authorised representative, filed statement of objection. In the statement of objection, the respondent contends 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

*Amended vid
order dated
07-02-2023 as
"Completion
date mentioned
in the agreed
Sale".*



respondent. 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 impact of the ruling of the NGT, New Delhi was common knowledge as the same had been extensively published in the media and the news papers. In support of their defence, the Respondent has submitted various documents. The respondent has sought to explain the delay by referring to above issues which are nothing but routine requirements of compliances and construction related issues which are required to be handled by the Promoter of any project who has undertaken to develop the real estate project. None of the reason submitted by the Respondent has any force and legal validity to justify the delay in completion of the project and provide any exception from the application of Section-18 of the Act. Therefore, as per Section 18 of the Act, the promoter is liable pay the delay period interest.

4. One of the contentions raised by the respondent for delay in completing the project is on account of Covid-19. As stated earlier, the delivery and completion of the project is December, 2019 and the actual Covid-19 pandemic started during the year 2020 and the respondent cannot plead before the Authority Covid-19 pandemic as the reason for delay in completing the project. The Respondent has obtained occupancy certificate and executed the registered sale deed on 26.7.2022 with a delay of



more than 2 years. Therefore, the exemption sought by the Respondent on account of Covid-19 for calculation of delay period interest for 9 months is not tenable and the same is not agreed by the Authority. Further, the Respondent has not kept the RERA Authority informed about the litigation before NGT at the time of registration nor had intimated the complainant about the ongoing dispute and could delay their project. The Respondent could have taken longer time for completion at the time of seeking registration of the project. The claim of the Respondent that the ruling of the NGT had been extensively published in the media and newspaper 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 inform the complainant at the time of registration of the apartment by the Complainant and not keeping the customers in dark. The fact remain that the amounts paid remained with the respondent and there is a cost associated with it to the complainant recognised by the Act. On a perusal of the documents filed and submissions made before the Authority, it is evident that complainant has paid advance sale consideration amount and admittedly there is a delay of more than two years in handing over the apartment as per the agreement. Hence the complainant is entitled to delay period interest u/s 18 of the Act and accordingly a memo of calculation submitted by the Complainant.

5. The Promoter-Respondent had submitted memo of calculation claiming exemption in payment of delay period interest to the complainant on account of NGT Order, Covid-19.



The exemption claimed by the Respondent is not acceptable as per the reasons mentioned above at para no.4 and on the other hand the complainant has produced the copy of the order passed by the Authority in CMP No.7958 and 9283 wherein in the similar circumstances, the Authority has rejected the claims of the respondent for exemption claimed in their memo of calculation of delay period interest and awarded full delay period interest to the complainant up to the date of execution of the registered sale deed.

And accordingly the Authority orders the following:

ORDER

1. In exercise of the powers conferred under Section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing CMP/210830/0008283 is hereby allowed.

*Amended vid
order dated
01-02-2023 as
"CMP/210615/00
07999"*

2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 from 31.12.2019 till the date of possession. The promoter shall pay the interest for the delay period as arrived at by the complainant amounting to Rs.12,75,633/ (Twelve lakhs eighty seventy five thousand six hundred thirty three only) within 60 days from the date of this order.


(G.R. REDDY)
MEMBER

FIFTH ADDITIONAL BENCH
K-RERA

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