

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY,
BENGALURU**

FIFTH ADDITIONAL BENCH

PRESENT

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

COMPLAINT NO.CMP/210525/0007959

DATED THIS 6TH FEBRUARY, 2023

COMPLAINANTS : Mr.Binu Chellappan
1014, G Block, Aratt Requizza
Gollahalli Village, Neotown Road
Electronic City Phase-I,
Bengaluru : 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 &
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-18 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project SHRIRAM SUMMITT praying for a direction to Respondent to pay delay period interest:



BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. The complainant has entered into an agreement of sale on 16.11.2019. The project completion date as per agreement was 31.01.2021. The complainant has paid an amount of Rs.47,06,979/- (Rupees Fourty seven lakhs six thousand nine hundred seventy nine only) to the respondent till the completion date. 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 31.01.2021. The promoter-responder was required to complete the project and hand over possession of the apartment by 31.01.2021. 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, the Authority has issued Notice to both the parties for appearance before the Authority. In pursuance of the notice, the Complainant and Respondent have appeared before the Authority. The Respondent through its counsel appeared and filed statement of objection. In the statement of objections, the respondent has sought to explain the delay by referring to several 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. The Complainant has also filed written submissions. 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. 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. Accordingly the Complainant had filed a memo of calculation in support of his claim. The Promoter-Respondent has also filed their memo of calculation.

5. It is noted that in the memo of calculation of delay period interest calculated by the Complainant comes to Rs.7,56,285/- and the delay period interest calculated by the Respondent is Rs.5,95,582/-. There is a difference of Rs.1,60,703/- which is on account of the deductions claimed by the Respondent towards GST, BWSSB, Katha Charges, Club House, Corpus, Fund, Maintenance, Option Charges and Covid-19 extensions. Nine months Covid-19 extension claimed by the Respondent cannot be considered since the possession was handed over with a delay of 18 months during which period the amount paid by the Complainant was with the Respondent and the Complainant has

paid interest for the same to the financial institutions. Hence, in view of my consideration, the exemption claimed by the Respondent for Covid-19 cannot be considered.

6. In response to the said deductions claimed by the Respondent, the Complainant has filed his written submissions quoting the Indian Contract Act wherein the builder charging penalty for delayed payments for the demand including GST and other charges, hence the same is applicable to purchaser and the Respondent cannot claim any deductions while calculating the delay period interest. The Claimant also submitted that he is claiming the delay period interest only on Rs.47,06,979/- and on the total amount of Rs.72,36,624/- paid on the date of handing over possession. The exemptions claimed by the Respondent towards GST, BWSSB, Katha, Club House, Corpus Fund, Maintenance comes only at the end of completion of the project and as such on the difference amount of Rs.25,29,645/- paid by the Complainant till the date of possession is not claiming any delay period interest. The contention of the complainant is accepted by the Authority.

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/210525/0007959 is hereby allowed.



2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 from 31.01.2021 till the date of possession as per the memo of calculation submitted by the complainant. The promoter shall pay the interest for the delay period as arrived at amounting to Rs.7,56,285/ (Rupees seven lakhs fifty six thousand two hundred eighty five only) within 60 days from the date of this order. 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.

There is no order as to cost.


(G.R. REDDY)

MEMBER

FIFTH ADDITIONAL BENCH
K-RERA

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Print Details

Home / Memo Calculation

Memo Calculation for Delay Period Interest

- 1. Guidelines to The Complaints Seeking Refund with Interest and Delay Period Interest
- 2. SBI MCLR Historical Rates
- 3. Interest Rate Till 30/04/2017 is 9.00 %
- 4. Interest Rate From 01/05/2017 is SBI MCLR Rate+ 2 %

Complaint Number :	CMP/210525/0007959	Complainant Name :	BINU CHELLAPPAN
Project Name :	SHRIRAM SUMMITT	Promoter Name :	SHRIRAM PROPERTIES PRIVATE LIMITED
Is Project Registered With RERA :	YES	Registration Number :	PRM/KA/RERA/1251/308/PR/171015/001121
Amount payable as per Agreement :	7,231,584	Date of Agreement for Sale :	16-11-2019
Total Amount paid till Possession Date :	4,706,979	Possession Date as per Agreement :	31-01-2021
		Actual Possession Date :	27-06-2022
Is there any Subsequent Payments made after Possession Date ? :	YES		
Submitted By :	COMPLAINANT	Submitted On :	25-01-2023
Type of Memo :	Delay Period Interest		

Payment Details

S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	4,706,979	31-01-2021
2	SUBSEQUENT PAYMENT 1	509,351	08-03-2021
3	SUBSEQUENT PAYMENT 2	5,040	12-04-2021
4	SUBSEQUENT PAYMENT 3	50,000	07-06-2021
5	SUBSEQUENT PAYMENT 4	509,644	05-08-2021
6	SUBSEQUENT PAYMENT 5	54,605	24-11-2021
7	SUBSEQUENT PAYMENT 6	339,762	30-11-2021
8	SUBSEQUENT PAYMENT 7	245,000	18-01-2022
9	SUBSEQUENT PAYMENT 8	6,068	07-06-2022
10	SUBSEQUENT PAYMENT 9	4,113	09-06-2022
11	TOTAL PRINCIPLE AMOUNT	6,430,562	
12	TOTAL DELAYED INTEREST as on 27/06/2022	756,285	

Interest Calculation

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 4,706,979						

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
1	31-01-2021	28-02-2021	28	7.3	9.3 as on 10-01-2021	33,580
2	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	33,580
3	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	37,178
4	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	35,979
5	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	37,178
6	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	35,979
7	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	37,178
8	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	37,178
9	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	35,979
10	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	37,178
11	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	35,979
12	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	37,178
13	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	37,178
14	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	33,580
15	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	37,178
16	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	36,366
17	28-05-2022	27-06-2022	30	7.5	9.5 as on 15-05-2022	36,753
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 509,351						
1	08-03-2021	08-04-2021	31	7.3	9.3 as on 10-02-2021	4,023
2	08-04-2021	08-05-2021	30	7.3	9.3 as on 10-03-2021	3,893
3	08-05-2021	08-06-2021	31	7.3	9.3 as on 10-04-2021	4,023
4	08-06-2021	08-07-2021	30	7.3	9.3 as on 15-05-2021	3,893
5	08-07-2021	08-08-2021	31	7.3	9.3 as on 15-06-2021	4,023
6	08-08-2021	08-09-2021	31	7.3	9.3 as on 15-07-2021	4,023
7	08-09-2021	08-10-2021	30	7.3	9.3 as on 15-08-2021	3,893
8	08-10-2021	08-11-2021	31	7.3	9.3 as on 15-09-2021	4,023
9	08-11-2021	08-12-2021	30	7.3	9.3 as on 15-10-2021	3,893
10	08-12-2021	08-01-2022	31	7.3	9.3 as on 15-11-2021	4,023
11	08-01-2022	08-02-2022	31	7.3	9.3 as on 15-12-2021	4,023
12	08-02-2022	08-03-2022	28	7.3	9.3 as on 15-01-2022	3,633
13	08-03-2022	08-04-2022	31	7.3	9.3 as on 15-02-2022	4,023
14	08-04-2022	08-05-2022	30	7.3	9.3 as on 15-03-2022	3,893
15	08-05-2022	08-06-2022	31	7.4	9.4 as on 15-04-2022	4,066
16	08-06-2022	27-06-2022	19	7.5	9.5 as on 15-05-2022	2,518
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 5,040						
1	12-04-2021	12-05-2021	30	7.3	9.3 as on 10-04-2021	38
2	12-05-2021	12-06-2021	31	7.3	9.3 as on 10-04-2021	39
3	12-06-2021	12-07-2021	30	7.3	9.3 as on 15-05-2021	38
4	12-07-2021	12-08-2021	31	7.3	9.3 as on 15-06-2021	39
5	12-08-2021	12-09-2021	31	7.3	9.3 as on 15-07-2021	39
6	12-09-2021	12-10-2021	30	7.3	9.3 as on 15-08-2021	38

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
7	12-10-2021	12-11-2021	31	7.3	9.3 as on 15-09-2021	39
8	12-11-2021	12-12-2021	30	7.3	9.3 as on 15-10-2021	38
9	12-12-2021	12-01-2022	31	7.3	9.3 as on 15-11-2021	39
10	12-01-2022	12-02-2022	31	7.3	9.3 as on 15-12-2021	39
11	12-02-2022	12-03-2022	28	7.3	9.3 as on 15-01-2022	35
12	12-03-2022	12-04-2022	31	7.3	9.3 as on 15-02-2022	39
13	12-04-2022	12-05-2022	30	7.3	9.3 as on 15-03-2022	38
14	12-05-2022	12-06-2022	31	7.4	9.4 as on 15-04-2022	40
15	12-06-2022	27-06-2022	15	7.5	9.5 as on 15-05-2022	19
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 50,000						
1	07-06-2021	07-07-2021	30	7.3	9.3 as on 15-05-2021	382
2	07-07-2021	07-08-2021	31	7.3	9.3 as on 15-06-2021	394
3	07-08-2021	07-09-2021	31	7.3	9.3 as on 15-07-2021	394
4	07-09-2021	07-10-2021	30	7.3	9.3 as on 15-08-2021	382
5	07-10-2021	07-11-2021	31	7.3	9.3 as on 15-09-2021	394
6	07-11-2021	07-12-2021	30	7.3	9.3 as on 15-10-2021	382
7	07-12-2021	07-01-2022	31	7.3	9.3 as on 15-11-2021	394
8	07-01-2022	07-02-2022	31	7.3	9.3 as on 15-12-2021	394
9	07-02-2022	07-03-2022	28	7.3	9.3 as on 15-01-2022	356
10	07-03-2022	07-04-2022	31	7.3	9.3 as on 15-02-2022	394
11	07-04-2022	07-05-2022	30	7.3	9.3 as on 15-03-2022	382
12	07-05-2022	07-06-2022	31	7.4	9.4 as on 15-04-2022	399
13	07-06-2022	27-06-2022	20	7.5	9.5 as on 15-05-2022	260
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 509,644						
1	05-08-2021	05-09-2021	31	7.3	9.3 as on 15-07-2021	4,025
2	05-09-2021	05-10-2021	30	7.3	9.3 as on 15-08-2021	3,895
3	05-10-2021	05-11-2021	31	7.3	9.3 as on 15-09-2021	4,025
4	05-11-2021	05-12-2021	30	7.3	9.3 as on 15-10-2021	3,895
5	05-12-2021	05-01-2022	31	7.3	9.3 as on 15-11-2021	4,025
6	05-01-2022	05-02-2022	31	7.3	9.3 as on 15-12-2021	4,025
7	05-02-2022	05-03-2022	28	7.3	9.3 as on 15-01-2022	3,635
8	05-03-2022	05-04-2022	31	7.3	9.3 as on 15-02-2022	4,025
9	05-04-2022	05-05-2022	30	7.3	9.3 as on 15-03-2022	3,895
10	05-05-2022	05-06-2022	31	7.4	9.4 as on 15-04-2022	4,068
11	05-06-2022	27-06-2022	22	7.5	9.5 as on 15-05-2022	2,918
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 54,605						
1	24-11-2021	24-12-2021	30	7.3	9.3 as on 15-11-2021	417
2	24-12-2021	24-01-2022	31	7.3	9.3 as on 15-12-2021	431
3	24-01-2022	24-02-2022	31	7.3	9.3 as on 15-01-2022	431
4	24-02-2022	24-03-2022	28	7.3	9.3 as on 15-02-2022	389
5	24-03-2022	24-04-2022	31	7.3	9.3 as on 15-03-2022	431

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
6	24-04-2022	24-05-2022	30	7.4	9.4 as on 15-04-2022	421
7	24-05-2022	24-06-2022	31	7.5	9.5 as on 15-05-2022	440
8	24-06-2022	27-06-2022	3	7.7	9.7 as on 15-06-2022	43
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 339,762						
1	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	2,597
2	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	2,683
3	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	2,510
4	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	2,423
5	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	2,683
6	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	2,625
7	28-05-2022	27-06-2022	30	7.5	9.5 as on 15-05-2022	2,652
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 245,000						
1	18-01-2022	18-02-2022	31	7.3	9.3 as on 15-01-2022	1,935
2	18-02-2022	18-03-2022	28	7.3	9.3 as on 15-02-2022	1,747
3	18-03-2022	18-04-2022	31	7.3	9.3 as on 15-03-2022	1,935
4	18-04-2022	18-05-2022	30	7.4	9.4 as on 15-04-2022	1,892
5	18-05-2022	18-06-2022	31	7.5	9.5 as on 15-05-2022	1,976
6	18-06-2022	27-06-2022	9	7.7	9.7 as on 15-06-2022	585
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 6,068						
1	07-06-2022	07-07-2022	30	7.5	9.5 as on 15-05-2022	47
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 4,113						
1	09-06-2022	09-07-2022	30	7.5	9.5 as on 15-05-2022	32
TOTAL DELAYED INTEREST as on 27/06/2022						756 285