



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ CMP/8796

ಪುಟ ಸಂಖ್ಯೆ 9

ವಿಷಯ Sukesh N Shetty

Shreenam Green Field Phase-2

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

18/01/2024

Perused the Joint Memo of Settlement dated 17th January 2024 in CMP No.8796 filed by Complainant and Respondent that Respondent has paid an amount of Rs.3,00,000/- (Three lakhs only) to the Complainant as full and final settlement towards interest on delay period. Both the parties have settled the matter amicably and same is accepted.

Since the recovery process was set in motion prior to this settlement, the office is directed to recall the RRC issued against the Respondent and also send intimation to the concerned Deputy Commissioner about the same.


Hon'ble Member
K-RERA



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ



ಕಡತ ಸಂಖ್ಯೆ

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

NOT AN OFFICIAL COPY

CMP 3796/2022 Joint Settlement Memo

Shailaja M G <shailaja.mg@shriramproperties.com>

Wed 1/17/2024 3:31 PM

To: Hon'ble Member-2 <krera-member2@karnataka.gov.in>; Sukesh Shetty <sukesh.n.shetty@gmail.com>;

Cc: Shailaja M G <shailaja.mg@shriramproperties.com>;

1 attachments (1 MB)

doc22170720240117153401.pdf;

Dear Sir,

CMP 8796/2022 Joint Settlement Memo attached .

We would like to inform you that GF-2-G -303- Delay compensation is accepted for Rs 3,00,000/, the same signed through Joint Settlement memo.

Kindly close this case.

Kindly do needful.



Thanks & Regards

Shailaja M G

Senior Manager - Legal

Tel: 9964592769

✉ shailaja.mg@shriramproperties.com | 🌐 www.shriramproperties.com

THE SHRIRAM VALUES



UNDERSTANDING



TRUSTED



PRACTICAL



PROCESS-DRIVEN



WE ARE CERTIFIED AS
a Great Place to Work®
for the **Second Year** in a Row

GREAT PEOPLE MAKE GREAT PLACES TO WORK



CONFIDENTIALITY DISCLAIMER: This email and any attachments are confidential and intended solely for the addressee and may also be privileged or exempt from disclosure under applicable law. If you are not the addressee, or have received this email in error, please notify the sender immediately, delete it from your system and do not copy, disclose or otherwise act upon any part of this email or its attachments. Shriram Properties Limited or its affiliates does not accept responsibility for any loss arising from unauthorized access to, or interference with, any internet communications by any third party, or from the transmission of any viruses. The contents of this message may not necessarily represent the views or policies of Shriram Properties Limited or its affiliates.

NOT AN OFFICIAL COPY

BEFORE THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY
AT BANGALORE.

CMP No.8796 /2022

Between:

Mr. Sukesh N Shetty

Complainant

And:

Shrivation Towers Pvt Ltd


Respondent

JOINT MEMO OF SETTLEMENT

The Complainant and the Respondent most respectfully submit as follows: -

1. The Complainant has filed this case Before this Hon'ble Authority in complaint No. CMP/ 8796/2022.

After due discussions between the Complainant and Respondent, the parties have amicably resolved to settle the matter amongst themselves and thereby resolved to solve the dispute. The signing Parties have agreed as under and have decided to file the present Joint Memo of Settlement and settle this case in accordance with the same.



For Shrivation Towers Pvt. Ltd.

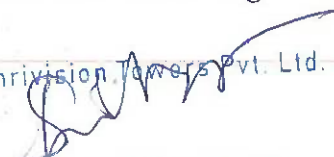


Authorised Signatory

NOT AN OFFICIAL COPY


- a. The complainant has agreed to take possession in the Project known as "Shriram GF-2" bearing Apartment No. G-303 in G Tower.
- b. The Complainant has agreed to receive Rs.3,00,000 /- (Rupees Three Lakhs Only) as full and final settlement amount.
- c. Similarly, the Complainant and the Respondent have agreed that the amount of Rs. 3,00,000 /- (Rupees Three Lakhs Only) shall be paid in the form of final Demand towards Adjusting balance sale consideration from the Signing of this memo.
2. That both the Parties have undertaken not to file any other case/proceedings before any court/authority against each other with regards to the subject-matter of the complaint. Further, both Parties agree that any other proceedings or actions initiated regarding the subject matter of this complaint and if so, the same shall be treated as stand settled without any further demand.
3. The Parties state that, they have no claim of whatsoever manner against each other either past, present, or future other than what is agreed upon with respect to the complaint filed before in the Project known as Shriram GF-2 bearing the RERA which is the subject matter of this case.
4. The Parties further state that there is no collusion, force, fraud or any undue influence in entering into the instant compromise and executing the Joint memo of settlement.



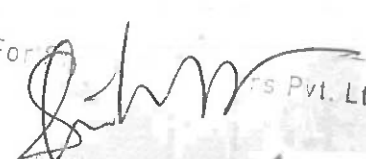
For Shrivision Towers Pvt. Ltd.

Authorised Signatory

NOT AN OFFICIAL COPY

1.


Sukesh N Shetty
Complainant

1.

For 
Respondent
s Pvt. Ltd.

Place: Bengaluru

Date: 17/01/2024

NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY

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 FEBRUARY 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220115/0008796

COMPLAINANT.....

**MR. SUKESH N SHETTY
84, 1ST CROSS, SBM COLONY
CHUNCHAGATTA MAIN ROAD
KONANAKUNTE
BANGALORE-560062.
(IN PERSON)**

Vs

RESPONDENT.....

**SHRIVISION TOWERS PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.**

**(By Mr.Joseph Anthony, Advocate
& others, JSM Law Partners)**

*** * * * ***

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "SHRIRAM GREENFIELD PHASE 2" developed by **SHRIVISION TOWERS PVT LTD** on Sy.No.73/1, 73/2A, 74(P) & 81, Bommanahalli Village, Bidarahalli Hobli, Bangalore East Taluk, Hoskote, Bengaluru Rural District for the relief of interest on delay.

2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1250/304/PR/171014/001220 valid till 31/3/2021. The project was extended due to Covid-19 for a period of 9 months till 31/12/2021. The Authority has further extended its registration for a further period of 12 months i.e. till 31/12/2022.

Brief facts of the complaint are as under:-

3. The complainant had purchased an apartment in the project of respondent and entered into an agreement of sale and construction agreement on 19/08/2019 and has paid an amount of Rs.29,70,170/-

Handwritten signature

(Rupees Twenty Nine Lakh Seventy Thousand One Hundred and Seventy only) to the respondent till date. The respondent was supposed to hand over the possession of the flat to the complainant by 31/03/2021 with 6 months grace period i.e. latest by the end of 30/09/2021, but till today the respondent has not handed over the possession of the apartment to the complainant. The respondent has failed to complete the project and deliver the possession of the flat on time. The respondent has kept postponing the date of possession multiple times for one or the other reason and has defaulted on terms and conditions as agreed. Further, the respondent instead of collecting 1% GST for the project which has not started construction before 01/04/2019 as per new norms, has collected 12% GST from the purchaser, which should be refunded. Hence, the respondent is liable to pay interest on delay period and refund of excess GST collected.

4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its representative/counsel and has filed statement of objections as under:

5. The Respondent contend that the complainant is not entitled for seeking relief sought in light of the Agreement of Sale dated 19/08/2019 and submit that the delay in completion of the project was attributed to the pending litigations against the respondent before the Hon'ble National Green Tribunal in O.A.No.222/2014 as well as before the Hon'ble Supreme Court in Civil Appeal No.5016/2016 benches regarding maintenance of buffer zones where the apartment allotted to complainant in respect of the project was situated and on conclusion of the cases in Hon'ble NGT and Hon'ble Supreme Court, the construction proceeded.

6. The respondent further contend 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 respondent, and the respondent cannot be held liable to compensate the complainants under section 18(1) of RERA Act.

[Handwritten signature]

7. In addition COVID-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondent. The respondent contend that there is no willful delay or default by the respondent in handing over the possession of the apartment to the complainant and continues to remain committed to delivering the possession to its customers. The respondent denies the allegations of the complainant and submit that the delay has been caused as a result of factors beyond the control of the respondent such as the ruling of the NGT and force majeure of the pandemic. The respondent further contend 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 newspapers, as the same was widely covered in public knowledge and prays not to grant the relief sought by the complainant in the interest of justice and equity and to dismiss the complaint.

8. In support of their defence, the respondent has submitted copy of the Agreement of Sale and Construction, Sanctioned Plan, Order dated 4/5/2016 passed by Hon'ble National Green Tribunal, Delhi in O.A.222/2014, Order dated 5/3/2019 passed by the Hon'ble Supreme Court in Civil Appeal No.5016/2016, maps of Bommenahalli Village and Bendiganahalli Village depicting the lake, screenshot from Google Maps depicting the location of the project and the lake, copies of the RERA registration and extension certificates and memo of calculation as on 20/12/2022.

9. In support of his claim, the complainant has produced documents such as copies of Agreement of Sale, Payment receipts, email correspondence with the respondent and memo of calculation as on 17/07/2022.

10. Heard arguments of both sides.

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

1. Whether the complainant is entitled for the relief claimed?

Handwritten signature

2. What order?

12. My answer to the above points are as under:-

1. In the Affirmative.
2. As per final order for the following

REASONS

13. My answer to point No.1:- From the materials placed on record, it is apparent that inspite of entering into an agreement for sale to handover the apartment within 31/03/2021 with the grace period of six months i.e. latest by 30/9/2021, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainant till today. The complainant vide his memo of calculation as on 17/07/2022 has claimed an amount of Rs.2,52,601/- as delay period interest calculated from 31/3/2021 to 17/7/2022. The respondent has filed his memo of calculation as on 20/12/2022 claiming that an amount of Rs.2,55,370/- as on 20/12/2022 calculated from 31/12/2021 to 20/12/2022 has to be paid to the complainant towards delay period interest. There is dispute over the principal amount paid and received by both the parties. A thorough verification of the documentary proof furnished by the complainant reveals that his claim is genuine. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest of Rs.1,66,336/- calculated from 30/9/2021 to 17/7/2022 the complainant.

14. During the process of the hearing on 18/10/2022 the Authority directed the respondent to furnish information regarding their completion plan of the project, the date of start of NGT litigation, date of order of Hon'ble NGT/Hon'ble Supreme Court, when the appeal was filed before the Hon'ble Supreme Court, date of sale of apartment to the complainant, whether the complainants/customers were kept informed about the litigation existing at the time of sale of agreement, whether they had kept the RERA Authority informed about this litigation at the time of registration, date of application for RERA registration.

15. The respondent have not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainant/customers about the ongoing dispute despite knowing the fact that the Hon'ble NGT order could delay their project. At the time of registration in RERA, the respondent could have taken larger time for completion or changed their building plan. The respondent's contention that the ruling of the NGT, New Delhi had been extensively published in the media and newspapers 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 open all their cards at the time of sales and not to keep the customers in dark.

16. As regards, GST is concerned, the Authority directed the Respondent to check with the Chartered Accountant as how to adjust the GST and submit the opinion of the Chartered Accountant in this matter. Accordingly, the respondent has submitted the Chartered Accountant's letter dated 6/2/2023. The opinion of the Chartered Accountant is reproduced below:

"Opinion – Our opinion on the same is as follows:

Section 34(1) of the GST Act 2017 states the details about issuance of Credit Notes and the time limit for the issuance. It states that the registered person who has supplied goods or services or both may issue a Credit Note containing such particulars as may be prescribed to the recipient in following situation:

- (1) Where the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or***
- (2) Where the goods supplied are returned by the recipient or***
- (3) Where goods or services or both supplied are found to be deficient.***

Further as per Section 34(2), he shall declare the details of such credit note in the return for the month during which such credit note

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

has been issued but not later than (1) September (November as per the recent amendment) following the end of the financial year in which such supply was made or (2) the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed.

Hence from the above Section 34(1) and 34(2) of the GST Act 2017, it can be seen that the excess paid of a financial year can only be adjusted vide issuance of credit notes and disclosed in the GST returns by September (or November) of the subsequent financial year. For example: Any adjustments for the Financial Year 2021-22 can only be done by 30th November 2022. Hence no credit notes can be issued for the transactions upto 31st March 2022 after 30th November 2022.”

This Authority concludes that the complainant has to take up the GST matter with the respondent/tax authorities separately.

17. Therefore, it is incumbent upon the respondent to pay interest on delay to the complainant determined as under:-

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	18,50,142	31-03-2021
2	SUBSEQUENT PAYMENT 1	5,00,294	24-02-2022
3	SUBSEQUENT PAYMENT 2	2,54,867	05-04-2022
4	SUBSEQUENT PAYMENT 3	10,000	15-05-2022
5	SUBSEQUENT PAYMENT 4	1,00,000	30-05-2022
6	SUBSEQUENT PAYMENT 5	2,54,867	02-07-2022
7	TOTAL PRINCIPLE AMOUNT	29,70,170	
8	TOTAL DELAYED INTEREST as on 17/07/2022	1,66,336	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 1,850,142						
1	30-09-2021	30-10-2021	30	7.3	9.3 as on 15-09-2021	14,142

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

2	30-10-2021	30-11-2021	31	7.3	9.3 as on 15-10-2021	14,613
3	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	14,142
4	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	14,613
5	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	13,670
6	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	13,199
7	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	14,613
8	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	14,294
9	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	14,927
10	28-06-2022	17-07-2022	19	7.7	9.7 as on 15-06-2022	9,341
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 500,294						
1	24-02-2022	24-03-2022	28	7.3	9.3 as on 15-02-2022	3,569
2	24-03-2022	24-04-2022	31	7.3	9.3 as on 15-03-2022	3,951
3	24-04-2022	24-05-2022	30	7.4	9.4 as on 15-04-2022	3,865
4	24-05-2022	24-06-2022	31	7.5	9.5 as on 15-05-2022	4,036
5	24-06-2022	17-07-2022	23	7.7	9.7 as on 15-06-2022	3,057
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 254,867						
1	05-04-2022	05-05-2022	30	7.3	9.3 as on 15-03-2022	1,948
2	05-05-2022	05-06-2022	31	7.4	9.4 as on 15-04-2022	2,034
3	05-06-2022	05-07-2022	30	7.5	9.5 as on 15-05-2022	1,990
4	02-07-2022	02-08-2022	31	7.7	9.7 as on 15-06-2022	2,099
5	05-07-2022	17-07-2022	12	7.7	9.7 as on 15-06-2022	812
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 10,000						
1	15-05-2022	15-06-2022	31	7.5	9.5 as on 15-05-2022	80
2	15-06-2022	15-07-2022	30	7.7	9.7 as on 15-06-2022	79
3	15-07-2022	17-07-2022	2	7.7	9.7 as on 15-06-2022	5
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 100,000						

Handwritten signature

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

1	30-05-2022	30-06-2022	31	7.5	9.5 as on 15-05-2022	806
2	30-06-2022	17-07-2022	17	7.7	9.7 as on 15-06-2022	451
					TOTAL DELAYED INTEREST as on 17/07/2022	1,66,336

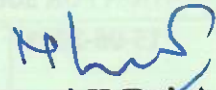
16. Accordingly, the point raised above is answered in the Affirmative.

17. **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/220115/0008796** is hereby allowed. Respondent is directed to pay a sum of **Rs.1,66,336/- (Rupees One Lakh Sixty Six Thousand Three Hundred and Thirty Six only)** towards delay period interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 30/09/2021 till 17/7/2022. The interest due from 18/07/2022 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.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA