



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ CMP/9539

ಪುಟ ಸಂಖ್ಯೆ 6

ವಿಷಯ Avadesh Kuman

Shri Ram Green Field Phase-2

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

08/02/2024

Perused the Joint Memo of Settlement dated 4th February 2024 in CMP No.9539 filed by Complainants and Respondent stating that the Respondent has paid an amount of Rs.2,75,000/- (Two lakhs seventy five thousand only) to the Complainants as full and final settlement towards interest on delay period. Both the parties have settled the matter amicably and the 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

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BEFORE THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY
AT BANGALORE.

CMP No.9539 /2022

Between:

Mr. Avadesh Kumar

Mrs. NeetanKumari

Complainant's

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/ 9539/23.

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.

- a. The complainant has agreed to take possession in the Project known as "Shriram GF-2" bearing Apartment No. G-1105 in G Tower.

For Shrivation Towers Pvt. Ltd.

Authorised Signatory

Amte.

- b. The Complainant has agreed to receive Rs.2,75,000 /- (Rupees Two Lakhs Seventy Five Thousand Only) as full and final settlement amount.
- c. Similarly, the Complainant and the Respondent have agreed that the amount of Rs. 2,75,000/- (Rupees Two lakhs Seventy Five Thousand 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.

1.



1.

For Shrivision Towers Pvt. Ltd.


Authorised Signatory

2. Neeta Kumari

Complainants

Place: Bengaluru

Date: 04-Feb-2024

For Shrivision Towers Pvt. Ltd.

Respondent Signatory

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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 1ST MARCH 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220530/0009539

COMPLAINANTS.....

**MR. AVADHESH KUMAR &
MRS. NEETA KUMARI
B6-1201, AWHO
SANDEEP VIHAR, KANNAMANGALA
KADUGODI
BANGALORE-560067**

(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.

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Brief facts of the complaint are as under:-

3. The complainants had purchased an apartment in the project of respondent and entered into an agreement for sale on 28/12/2018 and has paid an amount of Rs.34,78,201/- (Rupees Thirty Four Lakh Seventy Eight Thousand Two Hundred and One only) to the respondent on various dates. The respondent was supposed to hand over the possession of the flat to the complainants 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 complainants. 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 handing over possession of the apartment multiple times for one or the other reason and has defaulted on terms and conditions as agreed, due to which the complainants are suffering both financially and mentally. The complainants submit that the construction work is very slow and the builder is taking excuse of Covid-19 and that there is no proper communication by builder on actual completion plan and compensation for delay. The complainants have approached this Authority to issue directions to the respondent to give clear picture of the delivery date of the apartment and to pay interest for delay period. 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 contend that the complainants are not entitled for seeking relief sought in light of the Agreement of Sale dated 28/12/2018 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 discrepancies in the maintenance of buffer zones where the apartment allotted to complainants in respect of the project was situated, the respondent was constrained to

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halt constructions in respect of the project 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.

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 complainants and continues to remain committed to delivering the possession to its customers. The respondent denies the allegations of the complainants as false 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 complainants in the interest of justice and equity and to dismiss the complaint.

8. In support of their defence, the respondent has submitted copies of the Agreement for Sale, Sanctioned Plan dated 01/03/2016, 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 09/02/2023.

HWS

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9. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale, Allotment letter, revised plan given by the respondent, payment receipt, Customer statement issued by the respondent dated 20/7/2022 and memo of calculation as on 20/07/2022.

10. Heard arguments of both sides.

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

1. Whether the complainants are entitled for the relief claimed?
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 complainants till date. The complainants vide their memo of calculation as on 20/07/2022 have claimed an amount of Rs.2,99,503/- as delay period interest calculated from 31/3/2021 to 20/08/2022. The respondent has filed its memo of calculation as on 09/02/2023 claiming that an amount of Rs.4,12,122/- as on 09/02/2023 calculated from 30/09/2021 to 09/02/2023 to be paid to the complainants towards delay period interest. According to the complainants, the principle amount paid by them is Rs.34,78,201/- as on 20/7/2022. The respondent in his memo of calculation as on 09/02/2023 has shown that the principle amount received by them as on 24/09/2022 is Rs.36,05,161/-. Having regard to all these aspects, this Authority concludes that the complainants are entitled for

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delay period interest of Rs.4,12,122/- as per respondent's memo of calculation calculated from 30/9/2021 to 09/02/2023 and later on.

14. During the process of the hearing on 18/10/2022 in other similar cases, the Authority had 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 in the Hon'ble Supreme Court, date of sale of apartment to the complainants, 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 complainants/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. Therefore, it is incumbent upon the respondent to pay interest on delay to the complainants determined as under:-

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	28,44,271	30-09-2021
2	SUBSEQUENT PAYMENT 1	2,53,630	22-07-2022
3	SUBSEQUENT PAYMENT 2	2,53,630	19-08-2022

HLW

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4	SUBSEQUENT PAYMENT 3	2,53,630	24-09-2022
5	TOTAL PRINCIPLE AMOUNT	36,05,161	
6	TOTAL DELAYED INTEREST as on 09/02/2023	4,12,122	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 2,844,271						
1	30-09-2021	30-10-2021	30	7.3	9.3 as on 15-09-2021	21,741
2	30-10-2021	30-11-2021	31	7.3	9.3 as on 15-10-2021	22,465
3	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	21,741
4	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	22,465
5	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	21,016
6	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	20,291
7	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	22,465
8	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	21,974
9	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	22,948
10	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	22,676
11	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	23,673
12	28-08-2022	28-09-2022	31	8	10.0 as on 15-08-2022	24,156
13	28-09-2022	28-10-2022	30	8	10.0 as on 15-09-2022	23,377
14	28-10-2022	28-11-2022	31	8.25	10.25 as on 15-10-2022	24,760
15	28-11-2022	28-12-2022	30	8.35	10.35 as on 15-11-2022	24,195
16	28-12-2022	28-01-2023	31	8.6	10.6 as on 15-12-2022	25,606
17	28-01-2023	09-02-2023	12	8.6	10.6 as on 15-01-2023	9,912
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 253,630						

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1	22-07-2022	22-08-2022	31	7.8	9.8 as on 15-07-2022	2,111
2	19-08-2022	19-09-2022	31	8	10.0 as on 15-08-2022	2,154
3	22-08-2022	22-09-2022	31	8	10.0 as on 15-08-2022	2,154
4	19-09-2022	19-10-2022	30	8	10.0 as on 15-09-2022	2,084
5	22-09-2022	22-10-2022	30	8	10.0 as on 15-09-2022	2,084
6	24-09-2022	24-10-2022	30	8	10.0 as on 15-09-2022	2,084
7	19-10-2022	19-11-2022	31	8.25	10.25 as on 15-10-2022	2,207
8	22-10-2022	22-11-2022	31	8.25	10.25 as on 15-10-2022	2,207
9	24-10-2022	24-11-2022	31	8.25	10.25 as on 15-10-2022	2,207
10	19-11-2022	19-12-2022	30	8.35	10.35 as on 15-11-2022	2,157
11	22-11-2022	22-12-2022	30	8.35	10.35 as on 15-11-2022	2,157
12	24-11-2022	24-12-2022	30	8.35	10.35 as on 15-11-2022	2,157
13	19-12-2022	19-01-2023	31	8.6	10.6 as on 15-12-2022	2,283
14	22-12-2022	22-01-2023	31	8.6	10.6 as on 15-12-2022	2,283
15	24-12-2022	24-01-2023	31	8.6	10.6 as on 15-12-2022	2,283
16	19-01-2023	09-02-2023	21	8.6	10.6 as on 15-01-2023	1,546
17	22-01-2023	09-02-2023	18	8.6	10.6 as on 15-01-2023	1,325
18	24-01-2023	09-02-2023	16	8.6	10.6 as on 15-01-2023	1,178
					TOTAL DELAYED INTEREST as on 09/02/2023	4,12,122

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

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19. 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/220530/0009539** is hereby allowed. Respondent is directed to pay a sum of **Rs.4,12,122/- (Rupees Four Lakh Twelve Thousand One Hundred and Twenty Two only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 30/09/2021 till 09/02/2023. The interest due from 10/02/2023 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.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA