

**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 10<sup>TH</sup> MARCH 2023**

**PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU**

**COMPLAINT NO.: CMP/191205/0004889**

**COMPLAINANT.....**

**MR. VIJAY T DHALIR  
C3-303, ASWANI SUNSHINE  
NEAR INDUS INTERNATIONAL SCHOOL  
SARJAPURA  
BANGALORE-562125.**

**(IN PERSON)**

**Vs**

**RESPONDENT.....**

**ASWANI PROPERTIES INDIA PVT LTD  
NO.50/7, 3<sup>RD</sup> FLOOR, 16<sup>TH</sup> MAIN  
39<sup>TH</sup> CROSS, JAYANAGAR 4<sup>TH</sup> 'T' BLOCK  
BANGALORE-560041.**

**(BY MR. LAKSHMISH G, ADVOCATE,  
LG ASSOCIATES)**

**\* \* \* \* \***

**J U D G E M E N T**

1. This complaint is filed under section 31 of the RERA Act against the project "ASWANI SUNSHINE" developed by **M/S. ASWANI PROPERTIES INDIA PVT LTD** on Aswani Sunshine, S.No.16/3, Kotaganahalli, Attibele-Sarjapura Road, Sarjapura, Anekal Taluk, Bengaluru Urban for the relief of interest on delay period.
2. This project has been registered under RERA vide registration No.PRM/KA/RERA/1251/308/PR/171014/000896 and was valid from 31/7/2017 till 31/7/2019.

**Brief facts of the complaint are as under:-**

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3. The complainant has purchased an apartment in the project of respondent and entered into an agreement of sale and construction agreement on 09/11/2018 and has paid total sale consideration amount of Rs.23,96,700/- (Rupees Twenty Three Lakh Ninety Six Thousand Seven Hundred only) to the respondent on various dates. The respondent was supposed to hand over the possession of the flat to the complainant by the end of July 2019 as agreed. On repeated request of the complainant, the respondent gave possession of the apartment on 24/9/2021 and has executed sale deed in favour of the complainant. The complainant submits that the respondent has not provided the amenities such as, Lift, STP, Khata, etc as agreed. Thus, the complainant has approached this Authority with a prayer to direct the respondent to complete the pending work, handover all project related documents and pay delay period interest. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel, but has not filed statement of objections or produced any documents on its behalf.
5. In support of his claim, the complainant has produced documents such as copies of Agreement of Sale, Construction Agreement, Sale Deed, Payment Receipts and memo of calculation as on 22/07/2022.
6. Heard arguments of complainant side.
7. **On the above averments, the following points would arise for my consideration:-**
  1. Whether the complainant is entitled for the relief claimed?
  2. What order?
8. **My answer to the above points are as under:-**

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

**REASONS**

9. **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 with all the amenities, provide all project related documents, NOCs from the various government authorities, the respondent has failed to abide by the terms of the agreement and has not completed the amenities such as STP, house-keeping, securities. The respondent has also not provided Khata Certificate & other project related documents, etc and also has not cleared the flat mortgage. The complainant vide her memo of calculation as on 22/7/2022 has claimed an amount of Rs.6,79,540/- as interest on delay calculated from 31/07/2019 to 22/7/2022.
10. Though the respondent has appeared before the Authority in response to the notice through his counsel, despite several notices and summons sent, the respondent has not taken any interest to participate in the proceedings by filing statement of objections and producing documents on his behalf. The respondent has not at all disputed the claim of the complainant in any manner. Therefore, the claim of the complainant remained unchallenged and it is corroborated with the cogent evidence. These being the facts, in the absence of any resistance by the respondent, there is no option left to this Authority except to accept the claim of the complainant. The summons were also returned unserved.
11. The complainant has submitted that the registration of the property was executed on 24/09/2021. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest from 31/07/2019 to 24/09/2021.

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

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	23,81,941	31-07-2019
2	TOTAL DELAYED INTEREST as on 22/07/2022	6,79,540	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 2,381,941						
1	31-07-2019	31-08-2019	31	8.6	10.6 as on 10-07-2019	21,443
2	31-08-2019	30-09-2019	30	8.45	10.45 as on 10-08-2019	20,458
3	30-09-2019	30-10-2019	30	8.35	10.35 as on 10-09-2019	20,262
4	30-10-2019	30-11-2019	31	8.25	10.25 as on 10-10-2019	20,735
5	30-11-2019	30-12-2019	30	8.2	10.2 as on 10-11-2019	19,969
6	30-12-2019	30-01-2020	31	8.2	10.2 as on 10-12-2019	20,634
7	30-01-2020	29-02-2020	30	8.2	10.2 as on 10-01-2020	19,969
8	29-02-2020	29-03-2020	29	8.15	10.15 as on 10-02-2020	19,208
9	29-03-2020	29-04-2020	31	8.05	10.05 as on 10-03-2020	20,331
10	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	18,990
11	29-05-2020	29-06-2020	31	7.55	9.55 as on 10-05-2020	19,319

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12	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	18,207
13	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	18,814
14	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	18,814
15	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	18,207
16	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	18,814
17	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	18,207
18	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	18,814
19	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	18,207
20	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	16,993
21	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	18,814
22	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	18,207
23	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	18,814
24	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	18,207
25	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	18,814
26	28-08-2021	24-09-2021	31	7.3	9.3 as on 15-08-2021	16,386
TOTAL DELAYED INTEREST as on 24/09/2021						4,95,637

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

14. **My answer to Point No.2:-** In view of the above discussion, I proceed to pass the following order –

**ORDER**



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In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/191205/0004889** is hereby allowed.

1. Respondent is directed to pay a sum of **Rs.4,95,637/- (Rupees Four Lakh Ninety Five Thousand Six Hundred and Thirty Seven only)** towards delay period interest to the complainant within 60 days from the date of this order, calculated from 31/07/2019 to 24/09/2021. 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.
2. To complete all the pending works related to amenities as agreed by the respondent without any delay.
3. To handover all the project related documents to the complainant such as, NOCs, Khata Certificate, etc. and release of flat from mortgage.

No order as to the costs.

  
(Neelmani N Raju)  
Member, K-RERA