

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 10TH MARCH, 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/UR/201110/0007043

COMPLAINANTS.....

**MR.SRIKANTHA C S &
MRS.R. THANUJA
NO.78, 2ND STAGE
BRINDAVAN EXTENSION
MYSORE-570020.**

(By Mr. Sadanand Shastri, Advocate)

Vs

RESPONDENT.....

**OZONE GROUP
NO.38, ULSOOR ROAD
BANGALORE-560042.**

**(By Mr.Deepak Bhaskar & Associates,
Advocates)**

*** * * * ***

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "**OZONE URBANA PAVILLION**" developed by **M/S. OZONE GROUP** on OZONE Urbana, Kannamangala Village, Devanahalli, Taluk for the relief of interest on delay period.
2. This project has been registered under RERA vide registration No.PRM/KA/RERA/1250/303/PR/171019/000287 and was valid from 30/7/2017 till 31/12/2022. The Authority has extended its registration till 30/09/2023.

Brief facts of the complaint are as under:

3. The complainants had purchased an apartment in the project of the respondent and entered into an agreement of sale and construction agreement on 17/07/2014 and have paid an amount of Rs.57,87,071/- (Rupees Fifty Seven Lakh Eighty Seven Thousand and

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Seventy One only) on various dates to the respondent. The respondent was supposed to handover the apartment to the complainants by the end of October 2016 with a grace period of six months i.e. latest by the end of April 2017. Despite the total sale consideration amount has been paid to the respondent, the respondent has failed to handover the possession of the apartment even after five years and has thus failed to abide by the terms and conditions of the agreement dated 17/07/2014. The project is incomplete and the respondent is nowhere close to handing over possession of the apartment and is not responding to give any form of compensation to the complainants. Due to this enormous delay by the respondent, the complainants have suffered monetary losses. Thus, the complainants have approached this Authority, to direct the respondent to speed up the construction, handover possession of the apartment immediately and pay interest for the delay period. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondent appeared before the Authority through its counsel. But it has not contested the matter either by filing statement of objections or producing documents on its behalf. Despite opportunities were given, the respondent has not submitted its memo of calculation.
5. In support of their claim, the complainants have produced documents such as agreement of sale, construction agreement, Payment receipts, customer statement of account issued by the respondent company dated 09/09/2020 and memo of calculation as on 04/06/2022.
6. This case was heard on 22/6/2022, 17/8/2022, 28/9/2022, 13/12/2022 and 21/02/2023. The case has been reserved for orders.
7. Heard arguments of both sides.

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

- a. Whether the complainants are entitled for the relief claimed?
- b. What order?

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

- a. In the Affirmative.
- b. As per final order for the following:

REASONS

10. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement of sale and construction to handover the possession of an apartment, the builder has not completed the project as per agreement and has delayed the project, and has failed to handover the unit in favour of the complainants as agreed. Hence, the builder has failed to abide by the terms of the agreement for sale and construction agreement dated 17/07/2014 resulting in monetary losses to the complainants. There seems to be no possibility of completing the project or handing over the possession of the apartment in the near future.

11. As per section 18(1) of RERA Act, in case the allottee wishes to withdraw from the project, the promoter is liable without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.

12. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.

13. From the averments of the complaint and the copies of agreement between the parties, it is obvious that the complainants have paid total sale consideration amount to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of the apartment certainly entitles the complainants herein

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for interest on delay period. The complainants vide their memo of calculation as on 4/6/2022 have claimed an amount of Rs.31,55,988/- (Rupees Thirty One Lakh Fifty Five Thousand Nine Hundred and Eighty Eight only) as interest on delay period calculated from 01/10/2016 till 04/06/2022. Despite several opportunities were given, the respondent has failed to submit their memo of calculation. During the process of the hearing on 21/02/2023 the respondent sought the Authority to give more time for submitting calculation sheet. The Authority rejected their request saying that no further time can be given to them, as enough opportunity has been given already.

14. A thorough verification of the documentary proof submitted by the complainants reveal that their claim is genuine. Having regard to all these aspects, this Authority concludes that the complainants are entitled for an amount of Rs.28,68,161/- (Rupees Twenty Eight Lakh Sixty Eight Thousand One Hundred and Sixty One only) towards interest on delay period calculated from 01/05/2017 to 04/06/2022 and later on.
15. Therefore, it is incumbent upon the respondent to pay interest for the principle amount for the delay period which is determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	55,06,174	01-10-2016
2	SUBSEQUENT PAYMENT 1	2,00,000	25-07-2018
3	TOTAL PRINCIPLE AMOUNT	57,06,174	
4	TOTAL DELAYED INTEREST as on 04/06/2022	28,68,161	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST

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INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 5,506,174						
1	01-05-2017	01-06-2017	31	8.15	10.15 as on 01-05-2017	47,466
2	01-06-2017	01-07-2017	30	8.15	10.15 as on 01-06-2017	45,935
3	01-07-2017	01-08-2017	31	8.15	10.15 as on 01-07-2017	47,466
4	01-08-2017	01-09-2017	31	8.15	10.15 as on 01-08-2017	47,466
5	01-09-2017	01-10-2017	30	8.15	10.15 as on 01-09-2017	45,935
6	01-10-2017	01-11-2017	31	8.15	10.15 as on 01-10-2017	47,466
7	01-11-2017	01-12-2017	30	8.1	10.1 as on 01-11-2017	45,708
8	01-12-2017	01-01-2018	31	8.1	10.1 as on 01-12-2017	47,232
9	01-01-2018	01-02-2018	31	8.1	10.1 as on 01-01-2018	47,232
10	01-02-2018	01-03-2018	28	8.1	10.1 as on 01-02-2018	42,661
11	01-03-2018	01-04-2018	31	8.35	10.35 as on 01-03-2018	48,401
12	01-04-2018	01-05-2018	30	8.35	10.35 as on 01-04-2018	46,840
13	01-05-2018	01-06-2018	31	8.35	10.35 as on 01-05-2018	48,401
14	01-06-2018	01-07-2018	30	8.45	10.45 as on 01-06-2018	47,292
15	01-07-2018	01-08-2018	31	8.45	10.45 as on 01-07-2018	48,869
16	01-08-2018	01-09-2018	31	8.45	10.45 as on 01-08-2018	48,869
17	01-09-2018	01-10-2018	30	8.65	10.65 as on 01-09-2018	48,197
18	01-10-2018	01-11-2018	31	8.7	10.7 as on 01-10-2018	50,038
19	01-11-2018	01-12-2018	30	8.7	10.7 as on 01-11-2018	48,424
20	01-12-2018	01-01-2019	31	8.7	10.7 as on 01-11-2018	50,038
21	01-01-2019	01-02-2019	31	8.75	10.75 as on 10-12-2018	50,272
22	01-02-2019	01-03-2019	28	8.75	10.75 as on 10-01-2019	45,407

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23	01-03-2019	01-04-2019	31	8.75	10.75 as on 10-02-2019	50,272
24	01-04-2019	01-05-2019	30	8.75	10.75 as on 10-03-2019	48,650
25	01-05-2019	01-06-2019	31	8.7	10.7 as on 10-04-2019	50,038
26	01-06-2019	01-07-2019	30	8.65	10.65 as on 10-05-2019	48,197
27	01-07-2019	01-08-2019	31	8.65	10.65 as on 10-06-2019	49,804
28	01-08-2019	01-09-2019	31	8.6	10.6 as on 10-07-2019	49,570
29	01-09-2019	01-10-2019	30	8.45	10.45 as on 10-08-2019	47,292
30	01-10-2019	01-11-2019	31	8.35	10.35 as on 10-09-2019	48,401
31	01-11-2019	01-12-2019	30	8.25	10.25 as on 10-10-2019	46,387
32	01-12-2019	01-01-2020	31	8.2	10.2 as on 10-11-2019	47,700
33	01-01-2020	01-02-2020	31	8.2	10.2 as on 10-12-2019	47,700
34	01-02-2020	01-03-2020	29	8.2	10.2 as on 10-01-2020	44,622
35	01-03-2020	01-04-2020	31	8.15	10.15 as on 10-02-2020	47,466
36	01-04-2020	01-05-2020	30	8.05	10.05 as on 10-03-2020	45,482
37	01-05-2020	01-06-2020	31	7.7	9.7 as on 10-04-2020	45,361
38	01-06-2020	01-07-2020	30	7.55	9.55 as on 10-05-2020	43,219
39	01-07-2020	01-08-2020	31	7.3	9.3 as on 10-06-2020	43,491
40	01-08-2020	01-09-2020	31	7.3	9.3 as on 10-07-2020	43,491
41	01-09-2020	01-10-2020	30	7.3	9.3 as on 10-08-2020	42,088
42	01-10-2020	01-11-2020	31	7.3	9.3 as on 10-09-2020	43,491
43	01-11-2020	01-12-2020	30	7.3	9.3 as on 10-10-2020	42,088
44	01-12-2020	01-01-2021	31	7.3	9.3 as on 10-11-2020	43,491

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45	01-01-2021	01-02-2021	31	7.3	9.3 as on 10-12-2020	43,491
46	01-02-2021	01-03-2021	28	7.3	9.3 as on 10-01-2021	39,282
47	01-03-2021	01-04-2021	31	7.3	9.3 as on 10-02-2021	43,491
48	01-04-2021	01-05-2021	30	7.3	9.3 as on 10-03-2021	42,088
49	01-05-2021	01-06-2021	31	7.3	9.3 as on 10-04-2021	43,491
50	01-06-2021	01-07-2021	30	7.3	9.3 as on 15-05-2021	42,088
51	01-07-2021	01-08-2021	31	7.3	9.3 as on 15-06-2021	43,491
52	01-08-2021	01-09-2021	31	7.3	9.3 as on 15-07-2021	43,491
53	01-09-2021	01-10-2021	30	7.3	9.3 as on 15-08-2021	42,088
54	01-10-2021	01-11-2021	31	7.3	9.3 as on 15-09-2021	43,491
55	01-11-2021	01-12-2021	30	7.3	9.3 as on 15-10-2021	42,088
56	01-12-2021	01-01-2022	31	7.3	9.3 as on 15-11-2021	43,491
57	01-01-2022	01-02-2022	31	7.3	9.3 as on 15-12-2021	43,491
58	01-02-2022	01-03-2022	28	7.3	9.3 as on 15-01-2022	39,282
59	01-03-2022	01-04-2022	31	7.3	9.3 as on 15-02-2022	43,491
60	01-04-2022	01-05-2022	30	7.3	9.3 as on 15-03-2022	42,088
61	01-05-2022	01-06-2022	31	7.3	9.3 as on 15-03-2022	43,491
62	01-06-2022	04-06-2022	3	7.3	9.3 as on 15-03-2022	4,208
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 200,000						
1	25-07-2018	25-08-2018	31	8.45	10.45 as on 01-07-2018	1,775
2	25-08-2018	25-09-2018	31	8.45	10.45 as on 01-08-2018	1,775
3	25-09-2018	25-10-2018	30	8.65	10.65 as on 01-09-2018	1,750

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4	25-10-2018	25-11-2018	31	8.7	10.7 as on 01-10-2018	1,817
5	25-11-2018	25-12-2018	30	8.7	10.7 as on 01-11-2018	1,758
6	25-12-2018	25-01-2019	31	8.75	10.75 as on 10-12-2018	1,826
7	25-01-2019	25-02-2019	31	8.75	10.75 as on 10-01-2019	1,826
8	25-02-2019	25-03-2019	28	8.75	10.75 as on 10-02-2019	1,649
9	25-03-2019	25-04-2019	31	8.75	10.75 as on 10-03-2019	1,826
10	25-04-2019	25-05-2019	30	8.7	10.7 as on 10-04-2019	1,758
11	25-05-2019	25-06-2019	31	8.65	10.65 as on 10-05-2019	1,809
12	25-06-2019	25-07-2019	30	8.65	10.65 as on 10-06-2019	1,750
13	25-07-2019	25-08-2019	31	8.6	10.6 as on 10-07-2019	1,800
14	25-08-2019	25-09-2019	31	8.45	10.45 as on 10-08-2019	1,775
15	25-09-2019	25-10-2019	30	8.35	10.35 as on 10-09-2019	1,701
16	25-10-2019	25-11-2019	31	8.25	10.25 as on 10-10-2019	1,741
17	25-11-2019	25-12-2019	30	8.2	10.2 as on 10-11-2019	1,676
18	25-12-2019	25-01-2020	31	8.2	10.2 as on 10-12-2019	1,732
19	25-01-2020	25-02-2020	31	8.2	10.2 as on 10-01-2020	1,732
20	25-02-2020	25-03-2020	29	8.15	10.15 as on 10-02-2020	1,612
21	25-03-2020	25-04-2020	31	8.05	10.05 as on 10-03-2020	1,707
22	25-04-2020	25-05-2020	30	7.7	9.7 as on 10-04-2020	1,594
23	25-05-2020	25-06-2020	31	7.55	9.55 as on 10-05-2020	1,622
24	25-06-2020	25-07-2020	30	7.3	9.3 as on 10-06-2020	1,528

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25	25-07-2020	25-08-2020	31	7.3	9.3 as on 10-07-2020	1,579
26	25-08-2020	25-09-2020	31	7.3	9.3 as on 10-08-2020	1,579
27	25-09-2020	25-10-2020	30	7.3	9.3 as on 10-09-2020	1,528
28	25-10-2020	25-11-2020	31	7.3	9.3 as on 10-10-2020	1,579
29	25-11-2020	25-12-2020	30	7.3	9.3 as on 10-11-2020	1,528
30	25-12-2020	25-01-2021	31	7.3	9.3 as on 10-12-2020	1,579
31	25-01-2021	25-02-2021	31	7.3	9.3 as on 10-01-2021	1,579
32	25-02-2021	25-03-2021	28	7.3	9.3 as on 10-02-2021	1,426
33	25-03-2021	25-04-2021	31	7.3	9.3 as on 10-03-2021	1,579
34	25-04-2021	25-05-2021	30	7.3	9.3 as on 10-04-2021	1,528
35	25-05-2021	25-06-2021	31	7.3	9.3 as on 15-05-2021	1,579
36	25-06-2021	25-07-2021	30	7.3	9.3 as on 15-06-2021	1,528
37	25-07-2021	25-08-2021	31	7.3	9.3 as on 15-07-2021	1,579
38	25-08-2021	25-09-2021	31	7.3	9.3 as on 15-08-2021	1,579
39	25-09-2021	25-10-2021	30	7.3	9.3 as on 15-09-2021	1,528
40	25-10-2021	25-11-2021	31	7.3	9.3 as on 15-10-2021	1,579
41	25-11-2021	25-12-2021	30	7.3	9.3 as on 15-11-2021	1,528
42	25-12-2021	25-01-2022	31	7.3	9.3 as on 15-12-2021	1,579
43	25-01-2022	25-02-2022	31	7.3	9.3 as on 15-01-2022	1,579
44	25-02-2022	25-03-2022	28	7.3	9.3 as on 15-02-2022	1,426
45	25-03-2022	25-04-2022	31	7.3	9.3 as on 15-03-2022	1,579
46	25-04-2022	25-05-2022	30	7.3	9.3 as on 15-03-2022	1,528

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47	25-05-2022	04-06-2022	10	7.3	9.3 as on 15-03-2022	509
					TOTAL DELAYED INTEREST as on 04/06/2022	28,68,161

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

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/UR/201110/0007043** is hereby allowed. Respondent is directed to pay a sum of **Rs.28,68,161/- (Rupees Twenty Eight Lakh Sixty Eight Thousand One Hundred and Sixty One only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated MCLR + 2% from 01/05/2017 to 04/06/2022. The interest due from 05/06/2022 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