

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 15<sup>th</sup> MARCH 2023**

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

**COMPLAINT NO.: CMP/201224/0007317**

**COMPLAINANT.....**

**MR. ROHIT CHAUHAN  
D-003, OZONE URBANA PAVILION  
KANNAMANGALA  
DEVANAHALLI  
BANGALORE-562110.**

**(By Sri.K.J. Bojanna)  
Advocate)**

**V/S**

**RESPONDENT.....**

**M/S. OZONE URBANA INFRA  
DEVELOPERS PRIVATE LIMITED  
NO.38, ULSOOR ROAD  
BANGALORE - 560042.**

**(By Sri.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" developed by M/s Ozone Urbana Infra Developers Private Limited at Ozone Urbana NH-7, Kannamangala Village, Devanahalli, Bangalore for the relief of refund with interest.
2. This project is registered under RERA bearing registration No.PRM/KA/RERA/1250/303/PR/171019/000287 valid till 31/12/2022. The Authority has given Covid extension for a further period of 9 months i.e. till 30/09/2023.

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

3. Initially the complainant had booked an apartment G 405 in the project of the respondent. Due to non-completion, the complainant

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was compelled by the respondent to shift to L-303. The respondent had assured to handover the possession of the apartment by December 2017. But the respondent came up with another make-shift arrangement, to which complainant had to compromise and opt for D-003 with 2 bed room and another one bed room to settle for originally booked 3 bed room apartment. The complainant entered into an agreement of sale on 27/11/2018 and has paid Rs.83,09,391/- (Rupees Eighty Three Lakh Nine Thousand Three Hundred and Ninety One only) to the respondent on various dates. The actual date of possession as per agreement of sale is December 2022 with a grace period of six months i.e. by June 2023. The respondent also had promised to return the amount paid to L-303 by March 2019. The complainant submits that he was compelled to take two loans and register D 003 on false promise made by the respondent that the previous loan would be closed. The complainant has cleared the loan out of his savings. The complainant further submits that the respondent has not completed the project till date, failed to return the money paid towards previous apartment and has not received the occupancy certificate from the competent authority. The respondent is nowhere close to handing over possession of the apartment to the complainant. Due to the enormous delay caused by the respondent, the complainant has suffered huge monetary losses. The complainant is requesting for full refund with 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 it has not contested the matter either by filing statement of objections or producing documents on its behalf. The respondent has filed a calculation sheet as on 31/8/2022, 30/9/2022, 30/11/2022 and 28/2/2023.
5. In support of his claim, the complainant has produced copies of documents such as agreement of sale, home loan statement of account issued by HDFC for having paid EMIs, payment receipts,



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statement of account issued by ICICI Bank for having received amount from Ozone and memo of calculation as on 21/08/2022.

6. Heard arguments of both sides.
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:-
  1. In the Affirmative.
  2. As per final order for the following
9. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement of sale with an assurance to return the amount paid for previous apartment, the builder has neither returned the amount with interest nor has completed the project as per agreement and has delayed the project. The respondent has also failed to handover the unit in favour of the complainant till date. There seems to be no possibility of completing the project or handing over the possession of the apartment in the near future.
10. 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.
11. 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.
12. From the averments of the complaint and the copies of agreement between the parties, it is obvious that the complainant has paid full total sale consideration amount. Having accepted the said amount and failure to keep up promise to handover possession of the



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apartment and refund the amount paid towards previous apartment certainly entitles the complainant herein for refund with interest. The complainant has filed his memo of calculation as on 21/08/2022 claiming an amount of Rs.75,21,808/- (Rupees Seventy Five Lakh Twenty One Thousand Eight Hundred and Eight only) as refund with interest. The complainant has also admitted that the respondent has refunded an amount of Rs.45,81,815/- (Rupees Forty Five Lakh Eighty One Thousand Eight Hundred and Fifteen only) on various dates. The respondent in their calculation sheet as on 30/9/2022 claimed that an amount of Rs.7,23,353/- has been refunded to the complainant on 17/12/2018, whereas the complainant denies of having received any such amount from the respondent and has produced documents as proof in support of his claim.

13. During the process of the hearing on 9/3/2023, the Authority noticed that despite enough time was given to the respondent, the respondent is unable to provide proper accounts. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest as claimed by him vide his memo of calculation as on 21/08/2022.

14. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under:

Interest Calculation Till 30/04/2017 (Before RERA)					
S.NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	31/10/2014	200,000	912	30/04/2017	44,975
2	03/11/2014	728,150	909	30/04/2017	163,205
3	15/04/2015	1,152,183	746	30/04/2017	211,938
4	17/03/2016	200,000	409	30/04/2017	20,169
5	31/03/2016	1,129,650	395	30/04/2017	110,024
6	22/07/2016	1,460,822	282	30/04/2017	101,577
7	26/08/2016	1,460,822	247	30/04/2017	88,970
8	15/10/2016	973,882	197	30/04/2017	47,306
9	25/04/2017	973,882	5	30/04/2017	1,200
10				TOTAL INTEREST (11)	7,89,364

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Interest Calculation From 01/05/2017 (After RERA)							
S.NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	01/05/2017	8,279,391	575	27/11/2018	8.15	10.15 as on 01-05-2017	1,323,851
2	01/10/2018	10,000	57	27/11/2018	8.7	10.7 as on 01-10-2018	167
3	21/09/2020	20,000	699	21/08/2022	7.3	9.3 as on 10-09-2020	3,562
4	TOTAL AMOUNT	8,309,391				TOTAL INTEREST ( 12 )	1,327,580

Refund Interest Calculation From 01/05/2017 (After RERA)									
S.NO	AMOUNT PRINCIPLE	REFUND DATE	REFUND AMOUNT	BALANCE	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	8,309,391	27/11/2018	1,554,419	6,754,972	43	09/01/2019	8.7	10.7 as on 01-11-2018	85,149
2	6,754,972	09/01/2019	47,059	6,707,913	34	12/02/2019	8.75	10.75 as on 10-12-2018	67,171
3	6,707,913	12/02/2019	47,059	6,660,854	59	12/04/2019	8.75	10.75 as on 10-02-2019	115,743
4	6,660,854	12/04/2019	47,059	6,613,795	40	22/05/2019	8.7	10.7 as on 10-04-2019	77,553
5	6,613,795	22/05/2019	47,059	6,566,736	20	11/06/2019	8.65	10.65 as on 10-05-2019	38,320
6	6,566,736	11/06/2019	47,059	6,519,677	31	12/07/2019	8.65	10.65 as on 10-06-2019	58,971
7	6,519,677	12/07/2019	47,059	6,472,618	35	16/08/2019	8.6	10.6 as on 10-07-2019	65,790
8	6,472,618	16/08/2019	47,059	6,425,559	27	12/09/2019	8.45	10.45 as on 10-08-2019	49,670
9	6,425,559	12/09/2019	47,059	6,378,500	9	21/09/2019	8.35	10.35 as on 10-09-2019	16,278
10	6,378,500	21/09/2019	1,250,000	5,128,500	4	25/09/2019	8.35	10.35 as on 10-09-2019	5,816
11	5,128,500	25/09/2019	1,250,000	3,878,500	57	21/11/2019	8.35	10.35 as on 10-09-2019	62,688
12	3,878,500	21/11/2019	50,308	3,828,192	26	17/12/2019	8.2	10.2 as on 10-11-2019	27,814
13	3,828,192	17/12/2019	25,154	3,803,038	27	13/01/2020	8.2	10.2 as on 10-12-2019	28,694
14	3,803,038	13/01/2020	25,154	3,777,884	38	20/02/2020	8.2	10.2 as on 10-01-2020	40,118
15	3,777,884	20/02/2020	25,154	3,752,730	26	17/03/2020	8.15	10.15 as on 10-02-2020	27,132
16	3,752,730	17/03/2020	25,154	3,727,576	887	21/08/2022	8.05	10.05 as on 10-03-2020	910,381
17								TOTAL INTEREST ( 13 )	1,677,288

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Memo Calculation			
PRINCIPLE AMOUNT ( A )	INTEREST ( B = I1 + I2 + I3 ) AS ON 21-08-2022	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
8,309,391	3,794,232	4,581,815	7,521,808

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

16. **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/201224/0007317** is hereby allowed. Respondent is directed to pay the amount of **Rs.75,21,808/- (Rupees Seventy Five Lakh Twenty One Thousand Eight Hundred and Eight only) towards refund with interest** calculated at 9% from 31/10/2014 to 30/04/2017 and MCLR + 2% from 01/05/2017 till 21/08/2022 to the complainant within 60 days from the date of this order. The interest due from 22/08/2022 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.

  
(Neelmani N Raju)  
Member, K-RERA