

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 25TH MAY 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

CMP/200917/0006606 COMPLAINT NO.: CMP/200917/0006606

COMPLAINANTS.....

**MR. RAGHUSHANKAR &
MRS.P. USHARANI
NO.4/2, SHARADA NILAYA
VISHVESWARAIAH LANE
BTS LAYOUT, AREKERE
BANGALORE-560076.**

**(BY MRS.H.V. SHARADA,
ADVOCATE)**

Vs

RESPONDENT.....

**MANTRI CASTLES PVT LTD
MANTRI HOUSE
NO.41, VITTAL MALLYA ROAD
BANGALORE-560001.**

**(By MR.E. SUHAIL AHMED,
Ms. ANITA DOMINIC &
MS. JASLEEN KAUR, ADVOCATES
TRIAL BASE 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 "**MANTRI SERENITY4**" developed by **MANTRI CASTLES PVT LTD** on Sy.No.56,57,58,59 and 60(P), Doddakallasandra Village, Uttarahalli Hobli, Off. Kanakapura Road, Bangalore South Taluk, Bangalore for the relief of interest on delay period.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/310/PR/171016/000502 valid till 29/01/2020. The Authority extended the registration of the project for a further period of 12 months i.e. till 29/01/2021. The project

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was further extended due to Covid-19 for a period of 9 months till 29/10/2021.

Brief facts of the complaint are as under:-

3. The complainants had purchased an apartment under PEMI scheme in the project of respondent and entered into an agreement of sale and construction agreement on 20/03/2013 and have paid an amount of Rs.68,36,799/- (Rupees Sixty Eight Lakh Thirty Six Thousand Seven Hundred and Ninety Nine only) (including housing loan from Axis Bank) on various dates to the respondent. The respondent had assured that within three years they will handover possession of the flat whereas as per the agreement of sale, the respondent was supposed to hand over the possession of the flat to the complainants by 31/12/2015 subject to receiving the occupancy certificate from the competent authority and receipt of all the payments. But the date of handing over possession was revised to 30/07/2019 vide respondent's letter dated 22/06/2017 due to unforeseen circumstances. The complainants submit that the respondent handed over the possession of the flat on 20/03/2022.
4. The respondent had also promised that they will bear the PEMI for 36 months from the date of commencement of construction and will be paid to the customers on monthly basis on the following month of the last month. But the respondent has failed to complete the project and deliver the possession of the flat on time as agreed. The complainants submit that the respondent has collected stamp duty and registration charges twice, once at the time of making payment for the purchase of flat and another again on 7/2/2022. Therefore, the complainants have approached this Authority and pray for direction to the respondent to pay interest on delay period. Hence, this complaint.
5. 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:

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6. The respondent contends that the complainant is not entitled for seeking relief sought for in light of the Agreement of Sale dated 20/3/2013 and submits that the project being an ongoing project was registered under RERA Act. The respondent submits that they faced certain unforeseen difficulties in completing the project such as legal and licensing issues, heavy rains and flooding in the project site due to which the construction work was not carried out for 3-4 months, demonetization, implementation of GST, imposition of restriction by the Hon'ble High Court on working hours of construction by the builders, force majeure conditions such as, scarcity of raw materials, non-availability of skilled labourers, transport disruption or such reasons beyond the control of the respondent, and the respondent cannot be held liable to compensate the complainant under section 18(1) of RERA Act. In addition Covid-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondent.
7. The respondent submit that they started making vigorous efforts to avail benefit of the Special Window for Completion of Construction of Affordable and Mid-Income Housing Projects (SWAMIH) scheme for completing the project and obtained sanction of investment vide letter dated 19/3/2020. The respondent further submit that there is no default by them and that the complainants have given their consent that until SWAMIH full and final repayment of its due in relation to the project, the complainants can claim any refund or compensation.
8. The respondent contends that there is no wilful 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 and prays not to grant the relief sought by them in the interest of justice and equity.

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9. In support of their defence, the respondent has submitted copies of the RERA registration and extension certificates, Sanction letter of investment by way of subscription to NCDs dated 19/3/2020, customer statement of account as on 8/7/2021 issued by the respondent.
10. In support of their claim, the complainants have produced documents such as copies of Agreement of Sale, construction agreement, payment receipts, letter correspondences from respondent and memo of calculation as on 17/12/2022 (calculated from 30/09/2017 till 20/03/2022).
11. Heard arguments of both sides.
12. **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?
13. **My answer to the above points are as under:-**
1. In the Affirmative.
 2. As per final order for the following

REASONS

14. **My answer to point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement for sale and construction agreement to handover the apartment by 31/12/2015 and modifying the date of handing over the possession of the apartment to 30/07/2019 due to unforeseen circumstances, the respondent failed to handover the possession of the apartment to the complainants till 20/03/2022. When the respondent has failed to handover possession as agreed, the complainants have approached this forum for direction to the respondents to pay interest on delay period.
15. From the averments of the complaint and the copies of agreement between the parties, it is obvious that complainants have

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already paid entire sale consideration amount to the respondents.

Having accepted the said amount and failure to keep up promise to handover possession of the apartment as agreed despite modifying the date of handing over possession, certainly entitles the complainants herein for delay period interest.

16. During the process of the hearing, the Authority gone through the statement of objections submitted by the respondent and the contention of the respondent that there is no default on their part has not been accepted. The complainant was assured that the possession of the flat will be handed over by 31/12/2015 and the complainants got possession of the flat on 20/3/2022 after a delay of more than six years.

17. The complainants vide their memo of calculation as on 17/12/2022 have claimed an amount of Rs.28,85,338/- as delay period interest calculated from 30/09/2017 till 20/03/2022 the date on which the possession of the apartment was handed over to the complainants. Despite several opportunities were given to the respondent, they failed to file their memo of calculation.

18. Having regard to all these aspects, with no other option left, this Authority concludes that the complainants are entitled for delay period interest from 30/09/2017 to 20/03/2022 the date on which the respondent handed over the possession of the apartment to the complainants.

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

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	6,476,799	30/09/2017
2	SUBSEQUENT PAYMENT 1	360,000	07/02/2022



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3	TOTAL PRINCIPLE AMOUNT	6,836,799	
4	TOTAL DELAYED INTEREST as on 20/03/2022	2,885,338	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 6,476,799						
1	30/09/2017	30/10/2017	30	8.15	10.15 as on 01-09-2017	54,032
2	30/10/2017	30/11/2017	31	8.15	10.15 as on 01-10-2017	55,833
3	30/11/2017	30/12/2017	30	8.1	10.1 as on 01-11-2017	53,766
4	30/12/2017	30/01/2018	31	8.1	10.1 as on 01-12-2017	55,558
5	30/01/2018	28/02/2018	29	8.1	10.1 as on 01-01-2018	51,974
6	28/02/2018	28/03/2018	28	8.1	10.1 as on 01-02-2018	50,181
7	28/03/2018	28/04/2018	31	8.35	10.35 as on 01-03-2018	56,933
8	28/04/2018	28/05/2018	30	8.35	10.35 as on 01-04-2018	55,097
9	28/05/2018	28/06/2018	31	8.35	10.35 as on 01-05-2018	56,933
10	28/06/2018	28/07/2018	30	8.45	10.45 as on 01-06-2018	55,629
11	28/07/2018	28/08/2018	31	8.45	10.45 as on 01-07-2018	57,483
12	28/08/2018	28/09/2018	31	8.45	10.45 as on 01-08-2018	57,483
13	28/09/2018	28/10/2018	30	8.65	10.65 as on 01-09-2018	56,694

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14	28/10/2018	28/11/2018	31	8.7	10.7 as on 01-10-2018	58,859
15	28/11/2018	28/12/2018	30	8.7	10.7 as on 01-11-2018	56,960
16	28/12/2018	28/01/2019	31	8.75	10.75 as on 10-12-2018	59,134
17	28/01/2019	28/02/2019	31	8.75	10.75 as on 10-01-2019	59,134
18	28/02/2019	28/03/2019	28	8.75	10.75 as on 10-02-2019	53,411
19	28/03/2019	28/04/2019	31	8.75	10.75 as on 10-03-2019	59,134
20	28/04/2019	28/05/2019	30	8.7	10.7 as on 10-04-2019	56,960
21	28/05/2019	28/06/2019	31	8.65	10.65 as on 10-05-2019	58,583
22	28/06/2019	28/07/2019	30	8.65	10.65 as on 10-06-2019	56,694
23	28/07/2019	28/08/2019	31	8.6	10.6 as on 10-07-2019	58,308
24	28/08/2019	28/09/2019	31	8.45	10.45 as on 10-08-2019	57,483
25	28/09/2019	28/10/2019	30	8.35	10.35 as on 10-09-2019	55,097
26	28/10/2019	28/11/2019	31	8.25	10.25 as on 10-10-2019	56,383
27	28/11/2019	28/12/2019	30	8.2	10.2 as on 10-11-2019	54,298
28	28/12/2019	28/01/2020	31	8.2	10.2 as on 10-12-2019	56,108
29	28/01/2020	28/02/2020	31	8.2	10.2 as on 10-01-2020	56,108
30	28/02/2020	28/03/2020	29	8.15	10.15 as on 10-02-2020	52,231
31	28/03/2020	28/04/2020	31	8.05	10.05 as on	55,283

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					10-03-2020	
32	28/04/2020	28/05/2020	30	7.7	9.7 as on 10-04-2020	51,636
33	28/05/2020	28/06/2020	31	7.55	9.55 as on 10-05-2020	52,533
34	28/06/2020	28/07/2020	30	7.3	9.3 as on 10-06-2020	49,507
35	28/07/2020	28/08/2020	31	7.3	9.3 as on 10-07-2020	51,157
36	28/08/2020	28/09/2020	31	7.3	9.3 as on 10-08-2020	51,157
37	28/09/2020	28/10/2020	30	7.3	9.3 as on 10-09-2020	49,507
38	28/10/2020	28/11/2020	31	7.3	9.3 as on 10-10-2020	51,157
39	28/11/2020	28/12/2020	30	7.3	9.3 as on 10-11-2020	49,507
40	28/12/2020	28/01/2021	31	7.3	9.3 as on 10-12-2020	51,157
41	28/01/2021	28/02/2021	31	7.3	9.3 as on 10-01-2021	51,157
42	28/02/2021	28/03/2021	28	7.3	9.3 as on 10-02-2021	46,207
43	28/03/2021	28/04/2021	31	7.3	9.3 as on 10-03-2021	51,157
44	28/04/2021	28/05/2021	30	7.3	9.3 as on 10-04-2021	49,507
45	28/05/2021	28/06/2021	31	7.3	9.3 as on 15-05-2021	51,157
46	28/06/2021	28/07/2021	30	7.3	9.3 as on 15-06-2021	49,507
47	28/07/2021	28/08/2021	31	7.3	9.3 as on 15-07-2021	51,157
48	28/08/2021	28/09/2021	31	7.3	9.3 as on 15-08-2021	51,157

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49	28/09/2021	28/10/2021	30	7.3	9.3 as on 15-09-2021	49,507
50	28/10/2021	28/11/2021	31	7.3	9.3 as on 15-10-2021	51,157
51	28/11/2021	28/12/2021	30	7.3	9.3 as on 15-11-2021	49,507
52	28/12/2021	28/01/2022	31	7.3	9.3 as on 15-12-2021	51,157
53	28/01/2022	28/02/2022	31	7.3	9.3 as on 15-01-2022	51,157
54	28/02/2022	20/03/2022	20	7.3	9.3 as on 15-02-2022	33,005
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 360,000						
1	07/02/2022	07/03/2022	28	7.3	9.3 as on 15-01-2022	2,568
2	07/03/2022	20/03/2022	13	7.3	9.3 as on 15-02-2022	1,192
					TOTAL DELAYED INTEREST as on 20/03/2022	2,885,338

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

21. **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/200917/0006606** is hereby allowed. Respondent is directed to pay a sum of **Rs.28,85,338/- (Rupees Twenty Eight Lakh Eighty Five Thousand Three Hundred and Thirty Eight only)** towards delay period interest to the complainants within 60 days from

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the date of this order, calculated at MCLR + 2% from
30/09/2017 till 20/03/2022. 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

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