



# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp. No: 9145

ಪುಟ ಸಂಖ್ಯೆ .....

ವಿಷಯ Sri. Praveen R

Pashmina Brookswood

ಕಂಡಿಕೆ  
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

**CMP- 9145**

**01.09.2023**

As per the request of the complainant and Sri. Raju. M authorised person of the respondent, the execution proceedings in the above case is taken-up for amicable settlement, in the National Lok Adalat held on 09.09.2023.

The complainant and Sri. Raju. M authorised person of the respondent are present, in the Lok-Adalat held on 01.09.2023. The authorised person of the respondent has filed the copy of the authorization. The dispute in connection with execution proceedings in the above case is settled as per the joint memo dated:01.09.2023 filed during the Pre Lok Adalat sitting held today on 01.09.2023. The settlement entered between the parties is voluntary and legal one and as per which the complainant has no further claims against the respondent whatsoever in the above case. The Complainant agrees to make payment of Rs. 3,42,060/- (Rupees Three Lakhs Forty Two Thousand and Sixty Only) to the Respondent towards the balance amount payable for the Unit, on or before execution and registration of the sale deed. The dispute in connection with execution proceedings in the above case is settled between the parties in the Pre Lok Adalat sitting held on 01.09.2023 in terms of the joint memo dated: 01.09.2023. The RRC if any, issued against the respondent is hereby recalled. The matter referred to conciliators to pass award.

  
Judicial Conciliator.

  
For Shashwati Realty Pvt. Ltd.

  
Authorised Signatory

  
Advocate Conciliator.



**BEFORE THE HON'BLE KARNATAKA REAL ESTATE REGULATORY  
AUTHORITY**

**LOK ADALAT**

**CMP/220317/0009145**

**BETWEEN:**

MR PRAVEEN R

...

**Complainant**

**AND**

M/s SHASHWATI REALTY PVT LTD,

...

**Respondent**

**JOINT MEMO**

The Respondent has developed a project under the name "Pashmina Brookwoods". Notably, the competent authority has issued Occupation Certificate in respect of the said project. The said project was delayed due to events not under the control of the Respondent because of Force Majeure events.

Initially, due to various reasons, which are beyond the control of the Company, the development work in the Project got hampered. Some of the reasons for the delay are inter alia as follows:

- Mandur dump yard agitation;
- COVID-19;
- Non-availability of labour;
- Late payments from prospective purchasers, such as the complainants;

For Shashwati Realty Pvt. Ltd.

Authorised Signatory




- e. Delay in getting approvals/ sanctions/permissions.
- f. Scarcity of raw materials such as sand;
- g. Unforeseeable weather conditions;
- h. Demonetization;

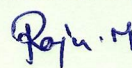
Considering the Clause 5 of the Construction Agreement, i.e., force majeure events and Clause 8 of the Supplementary Construction Agreement (payment of pre-EMI), the delay in handing over possession of the Unit is not attributable to the Respondent as it was a result of force majeure events. The Respondent is not liable for the delay.

However, in good faith, the Respondent has amicably settled with the Complainant. The Complainant and Respondent most respectfully submit as follows:

1. The Complainant has filed the instant complaint against the Respondent herein in relation to Unit bearing No B2C0007 in the project bearing the name "*Pashmina Brookwoods*" ("**Unit**") seeking a direction to the builder to either cure the deficiencies in the apartment or waive off the remaining payment so that the Complainant can get the work done themselves.
2. In the said complaint the Order has been passed by the Hon'ble Real Estate Regulatory Authority, Bengaluru, on 26<sup>th</sup> April 2023 ("**said Order**") the Complainant and the Respondent have agreed to amicably settle their disputes at this stage in the Lok Adalat.
3. In furtherance of the above, the Complainant and Respondent request that the execution proceedings in the instant complaint be disposed off as settled on the following terms:

For Shashwati Realty Pvt. Ltd.

  
C. Praveen



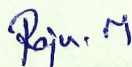
Authorised Signatory



- a. The Complainant hereby agrees to waive off any interest the Complainant may be entitled to claim towards delay in delivery of possession by the Respondent. The Respondent also agrees to waive off any interest the Respondent may be entitled to claim towards delay in payments to be made by the Complainant in accordance with the agreed Payment Schedule in the Construction Agreement and Agreement to Sell;
- b. The Complainant has inspected the Unit and having satisfied with the same has agreed to take possession of the Unit. The Complainant will not have any claim against the Respondent in regard to the Unit (apartment) in any manner whatsoever;
- c. The Complainant hereby agrees to make payment of Rs. **3,42,060/-** (Rupees Three Lakhs Forty Two Thousand Sixty Only) to the Respondent towards the balance amount payable for the Unit, on or before execution and registration of the sale deed.
- d. The Respondent shall execute a Sale Deed in-favour of the Complainant in respect of the Unit within 15 days (Fifteen Days) from today i.e., 01.09.2023.
4. The Complainant and the Respondent hereby agree that settlement in terms of this Joint Memo is in full and final settlement of all the disputes between the Parties. Thus the Complainant and the Respondent hereby agree not to press the Order passed by the Hon'ble Authority in CMP/220317/0009145, and all claims of either party in relation to the subject matter of the proceedings herein stand satisfied in terms of this joint memo and the parties have no further claim against each other whatsoever in connection with this case.



For Shashwati Realty Pvt. Ltd.



Authorised Signatory



5. This settlement is in full and final settlement of all the disputes between the Complainant and the Respondent and all the other notice/s, proceeding/s, if at all, will be formally withdrawn by the Complainant after execution and registration of Sale Deed.
6. The parties further request that the instant settlement be recorded in the National Lok Adalat to be held on 9.09.2023

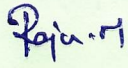
The instant joint memo may be taken on record in the interest of justice, equity and good conscience.

**Place: Bengaluru**

**Date:01.09.2023**

  
**Complainant**

For Shashwati Realty Pvt. Ltd.

  
**Authorised Signatory**

**Authorised signatory of the Respondent**



**Complaint No. CMP/220317/0009145**

**09.09.2023**

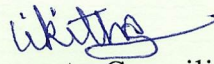
**Before the Lok-Adalat**

The execution proceedings in above case are taken up before the Lok-Adalat. The joint memo dated: 01.09.2023 filed by both the parties is hereby accepted. The dispute in connection with the execution proceedings in the above case between the parties is settled before the Pre Lok-Adalat sitting held on 01.09.2023, as per joint memo dated: 01.09.2023. The said joint memo filed by the parties shall be part and parcel of award/order.

The execution proceedings in the above case stands disposed off accordingly.



Judicial Conciliator.



Advocate Conciliator.



**KARNATAKA STATE LEGAL SERVICES AUTHORITY**  
**BEFORE THE LOK ADALAT**  
**IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT**  
**BENGALURU**

**DATED: 09<sup>TH</sup> DAY OF SEPTEMBER 2023**

**: CONCILIATORS PRESENT:**

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Ms. Likitha T. A

..... Advocate Conciliator

**COMPLAINT NO: CMP/220317/0009145**

**Between**

Mr. Praveen R

..... Complainant

AND

M/s. Shashwati Realty Pvt. Ltd.,  
(Rep. by Authorised person Mr. Raju M)

.....Respondent

**Award**

The dispute between the parties in connection with execution proceedings in the above case having been referred for determination to the Lok Adalat and the parties having compromised/settled the dispute in this case, as per the joint memo dated:01.09.2023 filed during the Pre Lok Adalat sitting held on 01.09.2023, same is accepted. The settlement entered between the parties is voluntary and legal one.

The execution proceeding in the above case stands disposed off as per the joint memo dated: 01.09.2023 and said joint memo is ordered to be treated as part and parcel of the award.

  
Judicial conciliator

  
Advocate conciliator

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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 FULL BENCH**

**PRESENT:**

**SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN**

**SMT. NEELMANI N RAJU, HON'BLE MEMBER**

**SHRI. GURIJALA RAVINDRANADHA REDDY, HON'BLE MEMBER**

**COMPLAINT NO.: CMP/220317/0009145**

**DATED THIS 26<sup>TH</sup> DAY OF APRIL, 2023**

**COMPLAINANT.....**

**PRAVEEN R,**  
#66/2, Netravathi Extension,  
Devasandra, K R Puram,  
Begaluru - 560037.

(In person)

**V/S**

**RESPONDENT.....**

**SHASHWATI REALTY PVT. LTD.,**  
No. 19/1, 2<sup>nd</sup> Floor,  
Doddamane Building,  
Vittalmallya Road,  
Bengaluru - 560001.

**(Rep. By. Sri. Arvind Rao, Advocate)**

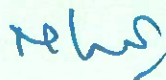
**PROJECT NAME &  
REGISTRATION NO.**

**PASHMINA BROOKWOODS  
PRM/KA/RERA/1250/304/  
PR/171015/000556**

\* \* \* \* \*

1. This complaint is filed under section 31 of the RERA Act against the project "Pashmina Brookwoods" developed by "Shaswati Realty Pvt. Ltd.," on Khataha no. 48,49,50 & 51 (Old SY. No. 22,23/1 & 24), Kammasandra village, Bidarahalli Hobli, Bengaluru East Taluk, Bengaluru for the relief of refund with interest.









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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

2. This project has been registered under RERA bearing Registration No. PRM/KA/RERA/1250/304/PR/171015/000556 valid till 30/09/2021. The Authority gave Covid extension for 9 months i.e., valid till 30/06/2022.

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

3. The complainant had booked a flat bearing No. B2C0007 in the project of respondent wherein the complainant entered into an agreement for sale agreement on 21/05/2019 for the total sale consideration of Rs.24,92,075/- (Rupees Twenty Four Lakhs Ninety Two Thousand Seventy Five only) and paid Rs.20,95,567/- (Rupees Twenty Lakhs Ninety Five Thousand Five Hundred and Sixty Seven only) to the respondent. The respondent was supposed to handover the flat in favour of the complainant on or before 31/01/2020 but he has failed to handover flat and to pay pre-EMI as agreed in the agreement of sale dated 21/05/2019. 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 not contested the matter by filing statement of objections, producing documents etc., on its behalf.
5. In support of his claim, the complainant has produced in all 5 documents such as copy of allotment letter, payment schedule, payment receipts, demand note and sale agreement dated 21/05/2019.
6. Hearings were conducted on 07/02/2023 and 23/03/2023.
7. Heard arguments of both sides.
8. **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?



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Karnataka Real Estate Regulatory Authority,

# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
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9. **My findings on the above points is as under:-**

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

**REASONS**

10. **My finding on point No. 1:-** From the materials available on records, it is apparent that in spite of entering into an sale agreement to handover the possession of an apartment, the builder has not completed the project as per agreement and has delayed the project. Hence, the builder has failed to abide by the terms of the sale agreement dated 21/05/2019. There seems to be no possibility of completing the project or handing over possession in near future.
11. In the judgement reported in Civil Appeal No. 3581-3590 of 2020 at para No. 23 between M/s. Imperia Structures Ltd., V/s. Anil Patni and another by the Hon'ble Supreme court it is held that,

*"In terms of Section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment duly completed by the date specified in the agreement, the Promoter would be liable, on demand, to return the amount received by him in respect of that apartment if the allottee wishes to withdraw from the Project. Such right of an allottee is specifically made "without prejudice to any other remedy available to him". The right so given to the allottee is unqualified and if availed, the money deposited by the allottee has to be refunded with interest at such rate as may be prescribed. The proviso to Section 18(1) contemplates a situation where the allottee does not intend to withdraw from the Project. In that case he is entitled to and must be paid interest for every month of delay till the handing over of the possession. It is upto the allottee to proceed either under Section 18(1) or under proviso to Section 18(1). The case of Himanshu Giri came under the latter category. The RERA Act thus*



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Karnataka Real Estate Regulatory Authority,

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*definitely provides a remedy to an allottee who wishes to withdraw  
from the Project or claim return on his investment."*

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 as 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 copy of agreement between the parties, the complainant has already paid substantial sale consideration. Having accepted the said amount and failure to keep up promise to handover possession of apartment certainly entitles the complainant herein for refund with interest.
14. Despite of several opportunities were given, the respondent has not filed his memo of calculation. A thorough verification of documentary evidence submitted by the complainant reveals that his claim is genuine. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest as submitted vide his memo of calculation dated 23/03/2023 in view of the non-co-operation of the respondent.
15. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under:-

**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%	INTERES T @X+2%
1	01-05-2017	0	2152	23-03-2023	8.15	10.15 as on 01-05-2017	0
2	31-01-2020	2,095,567	1147	23-03-2023	8.2	10.2 as on 10-01-2020	671,695
3	<b>TOTAL AMOUNT</b>	<b>2,095,567</b>				<b>TOTAL INTEREST ( I2 )</b>	<b>671,695</b>

**Memo Calculation**

PRINCIPLE AMOUNT ( A )	INTEREST ( B = I1 + I2 + I3 ) AS ON 23-03-2023	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
2,095,567	671,695	0	2,767,262



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16. Considering all these facts, this Authority concludes that the complainant is entitled for the relief claimed.
17. Accordingly, the point raised above is answered in the Affirmative.
18. **My finding on point No.2:-** In view of the above discussion, the complaint deserves to be allowed. Hence, we 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/220317/0009145 is hereby allowed

1. The respondent is directed to pay the amount of Rs.27,67,262/- (Rupees Twenty Seven Lakhs Sixty Seven Thousand Two Hundred and Sixty Two Only) towards refund with interest to the complainant within 60 days from the date of this order, calculated at SBI MCLR+2% from 31/01/2020 till 23/03/2023.
2. The interest due from 24/03/2023 up to the date of final payment shall be calculated likewise and paid to the complainant.
3. The complainant is at liberty to enforce the said order in accordance with law if the respondent fails to comply with the above order.

No order as to costs.

(G.R. REDDY)  
Member  
K-RERA

(NEELMANI N RAJU)  
Member  
K-RERA

(H.C. KISHORE CHANDRA)  
Chairman  
K-RERA



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