

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 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/201003/0006752**

**DATED THIS 2<sup>nd</sup> DAY OF JUNE, 2023**

**COMPLAINANTS.....**

**1. MANOJ KUMAR SAHU &**

**2. BISHAKHA SAHU,**

16/1, Ground Floor, 2<sup>nd</sup> Cross,  
4<sup>th</sup> Main, Balaji Nagar,  
Tavarekere, S G Palya,  
Bengaluru - 560029.

(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)**

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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 interest on delay period and possession.

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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 complainants have booked a flat bearing No. B2F0405 in the project of respondent wherein the complainants have entered into an agreement for sale on 30/06/2019 for the total sale consideration of Rs.30,57,905/- (Rupees Thirty Lakh Fifty Seven Thousand Nine Hundred and Five only) and paid Rs.29,05,008/- (Rupees Twenty Nine Lakh Five Thousand Eight only) to the respondent. The respondent was supposed to handover the flat in favour of the complainant on or before 31/10/2019. But, he has failed to handover the flat as agreed. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and filed statement of objections as under:-
5. It has denied entire allegations made by the complainants against the respondent as false. It contends that, complainants were bound by the payment schedule set out in the construction agreement and the agreement to sell which were executed between them. The complainants have not made payments to the respondent as agreed. During the year 2014 to 2016, the project came to standstill, since the Government of Karnataka selected Mandur dumping yard for the dumping the solid waste, which is in close proximity with the project. Further, Hoskote Planning Authority did not renew the modified plan and license of the respondent. The major ground for the delay is that, vide order dated 07/05/2015 the National Green Tribunal, had issued certain directions to the BBMP and other planning authorities including the State of Karnataka, not to sanction any construction projects etc., Further, on 04/05/2016 the National Green Tribunal, constituted a committee and issued certain directions to the planning authorities and also the state in relation the buffer zone to be maintained from the edges of Lakes

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and Rajakaluves, are concerned. Thereafter the NGT order dated 04/05/2016 has been set aside by the Hon'ble Supreme Court of India, vide order dated 05/03/2019 passed in Civil Appeal Nos.5016/2016 and connected appeals. Further, it is contented that RCC work for the said block is complete, presently there are more than 200 workmen at site to ensure that the project is completed and the respondent is certain that the timelines to complete the project by 30/06/2022 as provided by RERA will be adhered to without any further delay and the possession of the apartment shall also be given to the complainant as per the said timelines. As per RERA registration certificate, the time for completion of construction of the project by the respondent was 30/06/2022. Therefore present complaint is premature one.

6. It is pertinent to note that clause 5 of the construction agreement that this was excluding the time taken for securing occupancy certificate and also subject to variations on account of force majeure or acts of god, non-availability of steel, cement, other vital building materials, water and electricity supply, events of demonetization, strikes due to various social and political issues, shortage of raw materials etc., Delay is attributable due to Covid 19 and lock down in India commencing from March 23/25, 2020. Further, the respondents have paid the EMI till date. Hence, prayed to dismiss the complaint with costs.
7. In support of his claim, the complainant has produced in all 6 documents such as copy of allotment letter, payment schedule, payment receipts, demand note, construction agreement and sale agreement dated 31/10/2019.
8. Hearings were conducted on 19/08/2022, 12/09/2022, 30/09/2022, 21/10/2022, 28/10/2022, 18/11/2022, 07/02/2023 and 23/03/2023.
9. Heard arguments of both sides.

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10. **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?

11. **My findings on the above points is as under:-**

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

**REASON**

12. **My finding on point No. 1:-** Contention of complainants are that, so far they have paid a sum of Rs.29,05,008/- (Rupees Twenty Nine Lakh Five Thousand Eight only) to the respondent out of total sale consideration of Rs.30,57,905/- (Rupees Thirty Lakh Fifty Seven Thousand Nine Hundred and Five only). The respondent was supposed to handover the possession of the apartment in favour of complainants on or before 31/10/2019 as per the terms of agreement of sale dated 30/01/2019.
13. Same is resisted by the respondent on the grounds that said delay is due to force majeure and acts of god and also due to non-payment of balance amount by the allottees. As per RERA registration certificate they were supposed to complete the project on or before 30/06/2022.
14. From the materials available on record, it is apparent that the respondent had entered into an agreement of sale dated 30/01/2019 in respect of flats No. B2F0405 with the complainants and had received the substantial sale consideration. Having accepted the said amount from the complainants and failing to complete the project and to register the flat certainly entitles the complainants to claim for interest on delay period, registration of the flat and possession.
15. The complainants have furnished memo of calculation as on 07/02/2023 claiming the interest on delay period for Rs.9,14,082/- (Rupees Nine Lakh

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Fourteen Thousand Eighty Two Only) from 31/10/2019 to 07/02/2023. In spite of providing sufficient opportunity, the respondent has not furnished his memo of calculation. Due to the conduct of the respondent, the complainants have deprived of owning their own apartment.

16. Having regard to all these aspects, it is just and proper to direct the respondent to complete the pending works, register the sale deed and to handover possession of the flat bearing No. B2F0405 in favour of the complainants. Further, it is incumbent upon the respondent to pay interest on delay period which is determined as under:-

### PAYMENT DETAILS

S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	2,905,008	31-10-2019
3	TOTAL DELAYED INTEREST as on 07/02/2023	914,082	

### INTEREST CALCULATION

S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 2,905,008						
1	31-10-2019	30-11-2019	30	8.25	10.25 as on 10-10-2019	24,473
2	30-11-2019	30-12-2019	30	8.2	10.2 as on 10-11-2019	24,354
3	30-12-2019	30-01-2020	31	8.2	10.2 as on 10-12-2019	25,166
4	30-01-2020	29-02-2020	30	8.2	10.2 as on 10-01-2020	24,354
5	29-02-2020	29-03-2020	29	8.15	10.15 as on 10-02-2020	23,427
6	29-03-2020	29-04-2020	31	8.05	10.05 as on 10-03-2020	24,796
7	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	23,160
8	29-05-2020	29-06-2020	31	7.55	9.55 as on 10-05-2020	23,562
9	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	22,205
10	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	22,945
11	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	22,945

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S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
12	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	22,205
13	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	22,945
14	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	22,205
15	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	22,945
16	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	22,205
17	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	20,725
18	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	22,945
19	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	22,205
20	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	22,945
21	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	22,205
22	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	22,945
23	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	22,945
24	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	22,205
25	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	22,945
26	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	22,205
27	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	22,945
28	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	22,945
29	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	20,725
30	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	22,945
31	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	22,444
32	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	23,439
33	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	23,160
34	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	24,179
35	28-08-2022	28-09-2022	31	8.0	10.0 as on 15-08-2022	24,672
36	28-09-2022	28-10-2022	30	8.0	10.0 as on 15-09-2022	23,876
37	28-10-2022	28-11-2022	31	8.25	10.25 as on 15-10-2022	25,289
38	28-11-2022	28-12-2022	30	8.35	10.35 as on 15-11-2022	24,712
39	28-12-2022	28-01-2023	31	8.6	10.6 as on 15-12-2022	26,153

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S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
40	28-01-2023	07-02-2023	10	8.6	10.6 as on 15-01-2023	8,436
					<b>TOTAL DELAYED INTEREST as on 07/02/2023</b>	<b>914,082</b>

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

18. **Our findings on point No. 2:-** In view of the above discussion, this complaint deserves to be allowed. Hence, we 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/201003/0006752 is hereby allowed

- (i) Respondent is directed to execute the sale deed on receipt of balance sale consideration if any and to handover the possession of the flat bearing No. B2F0405 in the project "Pashmina Brookwoods" in favour of the complainants within 60 days from the date of this order.
- (ii) The respondent is directed to pay the amount of Rs.9,14,082/- (Rupees Nine Lakh Fourteen Thousand Eighty Two Only) towards interest on delay period to the complainants within 60 days from the date of this order, calculated at SBI MCLR+2% from 31/10/2019 till 07/02/2023. The interest due from 08/02/2023 up to the date of handing over possession will be calculated likewise and paid to the complainants within 60 days from the date of this order.

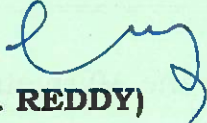
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- (iii) The complainants are at liberty to initiate action in accordance with law if the respondent fails to comply with this order.

No order as to costs.

  
(G.R. REDDY)  
Member  
K-RERA

  
(NEELMANI N RAJU)  
Member  
K-RERA

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