

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

Dated 08th JUNE, 2023

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO.CMP/210901/0008291

COMPLAINANTS

- : 1. Mr.Prathamesh Prakash Karmalkar
2. Ms.Avani Prathamesh Karmalkar

Both are residing at No.S2, 706,
Smondoville, Neotown, Electronic City
Phase-I, Bengaluru : 560 100

Party in Person

RESPONDENT /
PROMOTER

- : 1. M/s.Shriram Properties Pvt Ltd.
No.40/43, 8th Main, 4th Cross,
Sadashiv Nagar, Bengaluru:560080
2. M/s.Shriprop Dwellers Pvt Ltd.
No.40/43, 8th Main, 4th Cross,
Sadashiv Nagar, Bengaluru:560080

By Mr.Bharath &
Others, JSM Law Partners

PROJECT NAME &
REGISTRATION NO.

: SHRIRAM SUMMITT
PRM/KA/RERA/1251/308/PR/
171015/001121

J U D G E M E N T

This complaint is filed under Sec-18 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project



SHRIRAM SUMMITT praying for a direction to pay Delay Period Interest.

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. The complainants have entered into an agreement of sale on 29.09.2018. The project completion date as per agreement was 31.12.2019. The complainants have paid the entire sale consideration of Rs.55,32,000/- (Rupees Fifty Five Lakhs Thirty Two thousand only) to the respondent. Since there was delay of more than two years in handing over the apartment, the complainants have filed the above complaint before the Authority praying for the following relief/s:

a) Direct the Respondents to pay Delay Period Interest.

2. On a perusal of the sale agreement, it is seen that the completion date is agreed as 31.12.2019. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.12.2019. The Respondents have handed over possession on 10.06.2022 with a delay of more than 2 years. In cases where in the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee within the period mentioned in the agreement, the Allottee / Complainant is entitled to file a complaint before this Hon'ble Authority and the same is admissible for relief in accordance with Section 18 of the Act and accordingly the complaint is registered before the Authority.

3. After registration of the complaint, the Authority issued notice to both Complainants and the Respondents to appear before the



Authority. In pursuance of the notice issued by the Authority, the Complainants have appeared in person and the respondent has appeared before the Authority through its counsel and authorised representative. During the course of hearing the Complainants have submitted various documents in support of their complaint requesting the Authority to award Delay Period Interest.

4. During the hearing on 09.03.2023, the Authorised Representative of the Respondent has submitted before the Authority that negotiations are underway for an amicable settlement before the Lok Adalat in respect of all the Complaints pertaining to project SHRIRAM SUMMITT, including this complaint and prayed for time. The Respondents were given more than three months time for arriving at amicable settlement. Since, there was no information / submissions from the Respondents even after taking 3 months time, notice was given from the Authority to both Complainants and Respondents to appear before the Authority on 01.06.2023 to submit written submissions / statement of objections, if any.

5. During the hearing on 01.06.2023, the Respondents have submitted that they could not arrive at amicable settlement between the parties. The Complainants have submitted before the Authority that the Respondents have executed the sale deed on 10.06.2022 and the possession was taken over by the Complainants with a delay of more than two years. The Complainants have also submitted various documents such as copy of the sale deed, Occupancy Certificate, Consolidated Receipt for payments, agreement to sale, allotment letter etc., and prayed the Authority to award delay period



interest. On the other hand the Respondents have taken more than 3 months time for amicable settlement and the matter is not settled between the parties. The Complainants have submitted the MOC for delay period interest and served on the Respondent. In spite of availing sufficient time, the Respondents have neither filed statement of objection nor disputed the MOC filed by the Complainants.

6. On a perusal of the memo of calculation for delay period interest and various documents produced by the complainants before the authority, it is evident that complainants have paid the entire sale consideration amount and the Respondents have acknowledged the receipt of entire sale consideration vide its statement of account dated 12.07.2022. Admittedly there is a delay in handing over the apartment as per the agreement. Hence the complainants are entitled to delay period interest u/s 18 of the Act

Hence, the Authority orders the following:

ORDER

1. In exercise of the powers conferred under Section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing CMP/210901/0008291 is hereby allowed.
2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 from 31.12.2019 till the date of possession. The promoter shall pay the interest for the delay period as arrived at by the complainants amounting to Rs.12,76,567/ (Rupees Twelve



lakhs Seventy Six Thousand five hundred sixty seven only) up to the date of handing over possession i.e., 10.06.2022.

3. The Promoter-Respondent is also directed to pay interest on Rs.12,76,567/- (being the delay period interest awarded up to the date of possession i.e., 10.06.2022) for the subsequent period of delay in payment of the delay period interest to the Complainants and up to the date of payment.

4. The Promoter-Respondent is directed to pay the amounts awarded at Sl.No.2 & 3 of the operative portion of the order within 60 days from the date of this order. 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 orders of this Authority.


(G.R. REDDY)
MEMBER
FIFTH ADDITIONAL BENCH
K-RERA