

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**

**DATED 9th Day of June 2023**

**COMPLAINT NO. CMP/200228/0005578**

**COMPLAINANT:**

**Suma S.S. &**

**Radha N. Reddy**

No: 2179, 15<sup>th</sup> Cross, 22<sup>nd</sup>  
Main, HSR Layout, Sector-1  
**Bengaluru-560102.**

(By Mr. Nagesha Poojari Y  
Advocate)

V/s

**RESPONDENTS...**

**M/s Unishire Promoters  
Private Limited**

No.36, Railway Parallel Road  
Nehru Nagar  
**Bengaluru-560 020**

(By Sri. Harsha R, Advocate)

**PROJECT NAME &**

**UNISHIRE WEAVE**

**REGISTRATION NO.**

**PRM/KA/RERA/1251/309  
PR/180604/001862**

**JUDGEMENT**

1. This complaint is filed under section 31 of the RERA Act against the project "**Unishire Weave**" developed by "**M/s Unishire Promoters Private Limited**" for the relief of refund with interest.

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2. The promoter has developed this project in the limits of land bearing corporation no. 69/89/2, Chokkanahalli, Yelahanka Hobli, Bengaluru North Taluk.
3. **Brief facts of the complaint are as under:** The complainant has booked a residential apartment bearing no. T1-D-904, ninth floor, T1 Block in the project "**Unishire Weave**" of the respondent by entering into an Memorandum of agreement of sale on 02.11.2015. Out of the total sale consideration of Rs.60,05,144/- (Rs. Sixty lakhs five thousand one hundred forty four only) the complainant has paid an amount of Rs.2,50,000/- & Rs.12,76,286/- on 23.10.2015 and Rs.15,26,286/- on 29.10.2015 altogether Rs.30,52,572/- (Rs. Thirty lakhs fifty two thousand five hundred seventy two only) to the respondent which has been duly acknowledged by him. As per the memorandum of agreement of sale, the respondent was required to complete and hand over the possession within 36 month with 6 months grace period i.e. by 8.2.2020 from the date of issuance of commencement certificate from the BBMP. In this case the commencement certificate was obtained on 8.8.2016 by the respondent from BBMP and he did not complete the works in all respects of the project as on 8.2.2020 as agreed. The respondent promoter did not complete the project as per agreed date on 8.2.2020 even after a lapse of 5 years in spite of substantial consideration paid to the respondent.. The complainant being dissatisfied over slow progress of the project and have requested the respondent through email and phone apart from personal visit to respondent to complete the project. Since the respondent did not complete and hand over apartment as agreed, the complainants were forced to file the above complaint on 28.2.2020 before this Hon'ble Authority and sought for the relief of direction to the respondent to execute sale deed and interest on delay period due to enormous delay caused by the respondent. Hence, this complaint.



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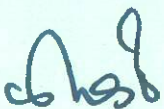
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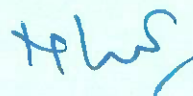
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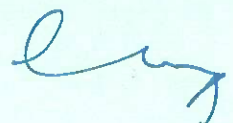
4. After registration of the complaint, in pursuance of the notice, the respondent has neither appeared before the Authority during the hearings held on nor contested the matter by filing objections and producing documents on its behalf.
5. In support of her claim, the complainant has produced documents such as (1) copy of memorandum of agreement of sale and construction both dated 02.11.2015 (2) copy of receipts and bank statements (3) copy of photographs (4) copy of memorandum of agreement of sale (5) copy of statements of outstanding amount.
6. In support of defence the respondent has not produced any documents.
7. Heard the complainant.
8. On the above averments, the following points would arise for our consideration.
9. 1) Whether the complainant is entitled for the relief claimed?  
2) What order?
10. **Answer to the above points is as under:**
  - 1) In the Affirmative
  - 2) As per final order for the following:

**FINDINGS**

11. **Findings on point no.1:** From the materials available on records, it is apparent that in spite of entering into an sale and construction agreement to hand over the possession of apartment no. T1-D-904, the respondent-promoter 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







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agreement dated 2.11.2015. There seems to be no possibility of completing the project or handing over possession in near future.

12. At this juncture, our attention is drawn towards the judgement of the Hon'ble Supreme Court of India in CIVIL APPEAL NO(S). 3581-359 2022, Civil Appeal Diary No: 9796/2019 between M/s Imperia Structures Limited vs. Anil Patni & others, it is held as under:

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

10. 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.

11. From the averment of the complaint and the copy of the agreement between the parties, it is obvious that the complainant has already paid the substantial consideration. Having accepted the said amount and failure to keep up the promise to hand over the possession of villas certainly entitles the complainant herein



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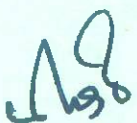
for refund of entire amount paid to the respondent along with interest.

12. Despite several notices and summons sent to the given address, the respondent failed to appear before the Authority and continuously remained absent from the hearings. In the absence of any resistance by the respondent and considering the claim of the complainant which is corroborated with documentary evidence, there is no option left to this Authority except to accept the claim of the complainant which is cogent with documentary evidence. Considering all these facts, this Authority concludes that the complainant is entitled for the relief claimed.
13. Accordingly, the point raised above is answered in the Affirmative.
14. **Findings on point no.2:** In view of the above discussion, the complaint deserves to be allowed. Hence, 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/ 200228/0005578 is hereby allowed.

1. The respondent is hereby directed to pay a sum of Rs.52,68,309/- (Rs. Fifty two lakhs, sixty eight thousand three hundred nine only) towards refund along with interest to the complainant within 60 days from this order calculated at the rate of 9% from 23.10.2015 till\_30.4.2017. Further at the rate of SBI MCLR +2 per cent from 1.5.2017 till 22.2.2023.







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2. Further, the interest due from 23.2.2023 up to the date of final payment will 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.

  
(NEELMANI N. RAJU)

Member  
K-RERA

  
(G.R. REDDY)

Member  
K-RERA

  
(H.C. Kishore Chandra)

Chairman  
K-RERA

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