

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 27th JUNE 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/220504/0009416

COMPLAINANTS.....

**MRS. RUCHEE &
MR. PRITHVI ANAND
B2, 813, GENESIS ECOSPHERE
NEELADRINAGAR
ELECTRONICS CITY PHASE I
BANGALORE-560100.**

**(BY MR.K.V. VINAY SHREYAS,
ADVOCATE)**

Vs

RESPONDENTS.....

**SHRIRAM PROPERTIES PVT LTD
40/43, 8TH MAIN, 4TH CROSS
SADASHIVA NAGAR
BANGALORE-560080.**

**SHRIPROP DWELLERS PRIVATE LTD
40/43, 8TH MAIN, 4TH CROSS
RMV Extension
SADASHIVA NAGAR
BANGALORE-560080.**

**(By Mr.Joseph Anthony, Advocate
& others, JSM Law Partners)**

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "**SHRIRAM SUMMITT**" developed by **SHRIRAM PROPERTIES PVT LTD** on Sy.No.80/1, 2, 3, 4, 84/6 & 7, 85/2, 87/2, 89/1 & 2, 121/1, 2, 3, Veerasandra Village & Hebbagodi Village, Attibele, Anekal Taluk, Bengaluru Urban-562107 for the relief of interest on delay period.

HLW

2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/308/PR/171015/001121 valid till 31/12/2019. The Authority has extended its registration for a further period of 12 months i.e. till 31/12/2020. The project was extended due to Covid-19 for a period of 9 months till 30/09/2021.

Brief facts of the complaint are as under:-

3. The complainants had purchased an apartment in the project of respondent and entered into an agreement of sale on 21/12/2017 and have paid an amount of Rs.60,13,155/- (Rupees Sixty Lakh Thirteen Thousand One Hundred and Fifty Five only) to the respondent on various dates. The respondent was supposed to hand over the possession of the flat to the complainants by 31/12/2019. The Occupancy Certificate was obtained from BDA on 7/5/2022 and the actual possession of the flat was given to the complainants on 29/06/2022 the date on which the Sale Deed was executed. The respondent has failed to handover the possession of the apartment on time as agreed. The complainants further submit that they have paid all the demand notes raised on time. The complainants submit that the delay has caused financially and emotionally and the burden of EMI and rent continues. Thus, the complainants have approached this Authority and pray for directions to the respondent to pay interest on delay period. 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 has filed statement of objections as under:

5. The respondent contends that the complainants are not entitled for seeking relief sought in light of the Agreement of Sale dated 21/12/2017 and submits that the delay in completion of the project was attributed to the pending litigations against the respondent before the Hon'ble National Green Tribunal in O.A.No.222/2014 as well as before the Hon'ble Supreme Court

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in Civil Appeal No.5016/2016 benches regarding maintenance of buffer zones where the apartment allotted to complainant in respect of the project was situated and on conclusion of the cases in Hon'ble NGT and Hon'ble Supreme Court, the construction proceeded.

6. The respondent submits that they were constrained and prohibited from proceeding with the construction due to the order of the Hon'ble NGT, New Delhi. The respondent contends that the fact was brought to the notice of both Hon'ble KRERA through letter dated 23/12/2019 as well as the customers/allottees vide email dated 19/7/2022.

7. The respondent submits that the project has not been completed within stipulated time due to force majeure events such as, scarcity of raw materials, non-availability of skilled labours, 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.

8. In addition COVID-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondent. The respondent contends that there is no willful 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 submits that the delay has been caused as a result of factors beyond the control of the respondent such as the ruling of the NGT and force majeure of the pandemic.

9. The respondent submits that the Occupancy Certificate was received on 7/5/2022 and the same was informed to the complainants on 30/5/2022. The respondent further submits that the complainants were invited for pre-registration visit through email dated 22/6/2022 and the Sale Deed was executed in favour of the complainants on 29/6/2022. The respondent

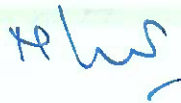


further prays not to grant the relief sought by the complainants and to dismiss the complaint.

10. The complainants in their rejoinder to the statement of objections submitted by the respondent and contend that the respondent has admitted the delay in completion of the project and opposes the relief sought on the ground that the construction was delayed due to the rocks beneath the soil and accumulation of water due to which the excavation took longer time as there was restriction on usage of explosives and that the construction activity had to be stopped in the wake of order issued by Hon'ble NGT with regard to buffer zone.

11. The complainants further contend that the ruling of Hon'ble NGT was in 2016 and the respondents did not inform either the Authority at the time of registration nor the complainants, though the respondent had entered into agreement of sale in 2018, the project was an ongoing project in 2017 and sanctioned plan was obtained in 2017. The complainants pray the Authority to issue directions to the respondent to pay interest on delay period.

12. In support of their defence, the respondent has submitted copies of the Occupancy Certificate dtd 7/5/2022, Agreement for Sale dated 15/02/2018, Order dated 4/5/2016 passed by the Hon'ble National Green Tribunal in O.A.No.222/2014, Order dated 5/3/2019 passed by the Hon'ble Supreme Court in Civil Appeal No.5016/2016, Sanctioned Plan demonstrating the location of the project vis-à-vis the tertiary nala flowing through, email communication with complainants, letter dated 23/12/2019 seeking extension of RERA registration and intimating Hon'ble Authority that construction activity is stopped due to order passed by Hon'ble NGT with regard to the buffer zone, email dated 19/7/2022 intimating customers about construction activity being stopped in the project due to Hon'ble NGT



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order, RERA registration certificate, Sale Deed dated 29/06/2022 and memo of calculation as on 20/6/2023.

13. In support of their claim, the complainants have produced documents such as copies of agreement of sale, payment receipts, customer statement of account dated Nil issued by Shriprop Dwellers Private Limited, sale deed dated 29/6/2022 and memo of calculation as on 15/10/2022.

14. This complaint was heard on 18/10/2022, 17/11/2022, 19/1/2023, 14/3/2023, 13/4/2023 and 22/6/2023. Heard arguments of both sides.

15. 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?

16. My answer to the above points are as under:-

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

REASONS

17. My answer to point No.1:- From the materials placed on record, it is apparent that inspite of entering into an agreement for sale to handover the apartment within 31/12/2019, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainants till 29/06/2022.

18. During the process of the hearing the Authority perused the statement of objections filed by the respondent and rejoinder filed by the complainants and directed the respondent to furnish information regarding the date of start of NGT litigation, date of order of Hon'ble NGT/Hon'ble Supreme Court, when the appeal was filed in the Hon'ble Supreme Court, date of sale of apartment to the complainant, whether the complainants/customers were kept informed about the litigation existing at the time of sale of agreement,

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whether they had kept the RERA Authority informed about this litigation at the time of registration, date of application for RERA registration.

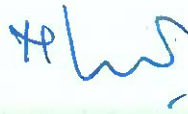
19. The respondent have not kept the RERA Authority informed about the litigation at the time of Registration nor had intimated the complainants/customers about the ongoing dispute despite knowing the fact that the Hon'ble NGT order could delay their project. At the time of registration in RERA, the respondent could have taken longer time for completion or changed their building plan. The respondent's contention that the ruling of the NGT, New Delhi had been extensively published in the media and newspapers and that the buyer ought to have been aware about the ruling of the NGT, New Delhi is not acceptable. The onus is on the promoter to open all their cards at the time of sales and not to keep the customers in dark.

20. The respondent submitted that M/s Shriprop Dwellers Private Limited has not been made as a party in the complaint filed by the complainants and that it is essential to make Shriprop Dwellers Private Limited as a party.

21. The complainants submitted a prayer for impleading M/s Shriprop Dwellers Private Limited as a respondent in the instant complaint. The Authority accepted the prayer accordingly.

22. The complainants vide their memo of calculation as on 15/10/2022 have claimed an amount of Rs.14,18,964/- as delay period interest calculated from 31/12/2019 to 30/06/2022.

23. The respondent vide their memo of calculation as on 20/6/2023 have submitted that the delay period interest payable to the complainants is Rs.17,98,316/- (calculated from 31/12/2019 till 20/06/2023) is not accepted, as the cut-off date would be the date of execution of the Sale Deed i.e. 29/06/2022.



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24. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/12/2019 to 29/06/2022.

25. 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	60,13,155	31-12-2019
2	TOTAL DELAYED INTEREST as on 29/06/2022	14,17,366	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 6,013,155						
1	31-12-2019	31-01-2020	31	8.2	10.2 as on 10-12-2019	52,092
2	31-01-2020	29-02-2020	29	8.2	10.2 as on 10-01-2020	48,731
3	29-02-2020	29-03-2020	29	8.15	10.15 as on 10-02-2020	48,492
4	29-03-2020	29-04-2020	31	8.05	10.05 as on 10-03-2020	51,325
5	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	47,940
6	29-05-2020	29-06-2020	31	7.55	9.55 as on 10-05-2020	48,772
7	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	45,963

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8	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	47,495
9	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	47,495
10	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	45,963
11	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	47,495
12	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	45,963
13	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	47,495
14	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	45,963
15	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	42,899
16	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	47,495
17	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	45,963
18	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	47,495
19	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	45,963
20	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	47,495
21	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	47,495
22	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	45,963
23	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	47,495

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24	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	45,963
25	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	47,495
26	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	47,495
27	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	42,899
28	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	47,495
29	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	46,457
30	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	48,517
31	28-06-2022	29-06-2022	1	7.7	9.7 as on 15-06-2022	1,598
					TOTAL DELAYED INTEREST as on 29/06/2022	14,17,366

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

27. **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/220504/0009416** is hereby allowed.

Respondent is directed to pay a sum of **Rs.14,17,366/-**
(Rupees Fourteen Lakh Seventeen Thousand Three

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Hundred and Sixty Six only) towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 31/12/2019 till 29/06/2022.

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.


(Neelmani N Raju)
Member, K-RERA

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