

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 3RD JULY 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.:CMP/220623/0009670

COMPLAINANTS.....

**MR. SATEESH C.V. &
MRS. SHILPA A
NO.12, RAGHAVA KALYANI COLONY
BATHRI ROAD
VIDYANAGAR
BALLARI-583104.**

(IN PERSON)

V/S

RESPONDENTS....

**SUVILAS PROPERTIES PRIVATE LIMITED
NO. 100, OLD NO.52
DONNABAS TOWER
RAILWAY PARALLEL ROAD
KUMARA PARK WEST
BANGALORE-560020.**

LIMITED

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

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

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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 SUVILAS GARDEN OF JOY**" developed by "**SUVILAS PROPERTIES PRIVATE LIMITED**" situated at No.15/2, Royal Street, Mydrahalli, Yeshwanthapura Hobli, BBMP Ward No.12, Bangalore-560090,

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Bengaluru Urban for the relief of interest for delay period and subsequently amended the relief sought to refund with interest.

2. This project has been registered under RERA bearing registration No. PRM/KA/RERA/1251/309/PR/180227/001096 valid till 01/07/2020. The project was extended due to COVID-19 for a period of 9 months i.e. till 01/04/2022. The Authority extended the registration for a further period of 12 months valid till 01/01/2022.

Brief facts of the complaint are as under:-

3. The complainants have purchased an apartment in the project of respondent by entering into an agreement for sale on 25/6/2019 and have paid an amount of Rs.41,06,340/- (Rupees Forty One Lakh Six Thousand Three Hundred and Forty only) to the respondent till date. The complainants submit that the respondent was supposed to handover the apartment by 15/4/2021 and has failed to handover the apartment as agreed. The complainants submit that the project is only 60% ready and the builder has confirmed that they are going to complete it by September 2023. The complainants further submit that they would like to withdraw from the project as they are finding it very difficult to pay both bank loan interest and rent. Due to the enormous delay, the complainants have opted for full refund with interest. Thus, the complainants have approached the Authority and pray for directions to the respondent for refund with interest. 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 informed the Hon'ble Authority that Shriram Properties have filed application before the RERA Authority for taking over this project.

5. The complainants have produced documents such as copies of Agreement of Sale, Allotment letter, payment receipts, customer statement of account

14/11/22

dated 20/6/2022 issued by the respondent, statement of account issued by HDFC, Bank of Baroda, Vijaya Bank and memo of calculation as on 15/09/2022 and revised memo of calculation as on 22/6/2023.

6. This matter was heard on 28/9/2022, 18/10/2022, 17/11/2022, 19/1/2023, 14/3/2023, 13/4/2023 and 22/6/2023. Heard arguments of both sides.

7. 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?

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

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

REASONS

9. My answer to point No.1:-From the materials placed on record, it is apparent that inspite of entering into an agreement to handover the possession of an apartment latest by 15/4/2021 the respondent has failed to abide by the terms of the agreement and has not handed over the possession of the apartment to the complainants till today.

10. During the process of the hearing on 28/9/2022, the Authority issued directions to make Suvilas Properties Pvt Ltd as Respondent-1 and Shriram Properties Limited as Respondent-2 in the instant complaint. On 18/10/2022 the respondent submitted that they want to close the case by doing negotiations with the complainants.

11. On 19/1/2023 the complainants requested the Authority for partial refund of bank loan at least. The respondent promised to look into the matter by 23rd January 2023.



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12. On 14/3/2023 the Authority directed the respondent to negotiate with the complainants to effect partial refund to ameliorate the complainant's financial suffering in view of the fact that Shriram is associated with Suvilas right from the beginning of the project and has also filed application for taking over the project.

13. The complainants vide their revised memo of calculation as on 22/6/2023 have claimed an amount of Rs.53,31,654/- (Rupees Fifty Three Lakh Thirty One Thousand Six Hundred and Fifty Four only) as refund with interest. The respondent has not filed their memo of calculation despite several opportunities given. Having regard to all the above aspects, the Authority is of the opinion that the complainants are entitled for refund with interest.

14. Therefore, it is incumbent upon the respondent to pay refund with interest determined as under:

Interest Calculation Till 30/04/2017 (Before RERA)					
S.NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	30-04-2017	0	2	30-04-2017	0
2		0		TOTAL INTEREST (I1)	0

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%	INTEREST @X+2%
1	01-05-2017	0	2243	22-06-2023	8.15	10.15 as on 01-05-2017	0
2	25-01-2019	25,000	1609	22-06-2023	8.75	10.75 as on 10-03-2019	11,847
3	12-03-2019	10,000	1563	22-06-2023	8.75	10.75 as on 10-03-2019	4,603

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4	12-03-2019	2,00,000	1563	22-06-2023	8.75	10.75 as on 10-03-2019	92,067
5	12-03-2019	90,000	1563	22-06-2023	8.75	10.75 as on 10-03-2019	41,430
6	19-03-2019	1,50,000	1556	22-06-2023	8.75	10.75 as on 10-03-2019	68,741
7	19-03-2019	72,512	1556	22-06-2023	8.75	10.75 as on 10-03-2019	33,230
8	08-01-2020	17,10,975	1261	22-06-2023	8.2	10.2 as on 10-12-2019	6,02,928
9	08-01-2020	2,05,317	1261	22-06-2023	8.2	10.2 as on 10-12-2019	72,351
10	31-05-2021	10,95,024	752	22-06-2023	7.3	9.3 as on 15-05-2021	2,09,812
11	27-09-2021	5,47,512	633	22-06-2023	7.3	9.3 as on 15-09-2021	88,305
12	TOTAL AMOUNT	41,06,340				TOTAL INTEREST (I2)	12,25,314

Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2) AS ON 22-06-2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
41,06,340	12,25,314	0	53,31,654

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

16. **My answer to point No.2:-** In view of the above discussion, 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,

(Signature)

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the complaint bearing No. **CMP/220623/0009670** is
hereby allowed.

Respondent is directed to pay a sum of **Rs.53,31,654/-**
(Rupees Fifty Three Lakh Thirty One Thousand and
Six Hundred and Fifty Four only) towards refund with
interest to the complainant within 60 days from the date
of this order, calculated at MCLR + 2% from 01/05/2017
to 22/06/2023. The interest accruing from 23/06/2023
till the date of final payment will be calculated likewise
and paid to the complainants.

Failing which, 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