

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/201201/0007198**

**DATED THIS 12<sup>TH</sup> DAY OF JULY, 2023**

**COMPLAINANT.....**

**SHEELA GUPTA,**  
I-206, Bren Trillium,  
Doddanagmangala Road,  
Electronic City,  
Bengaluru – 560100.

(In person)

**V/S**

**RESPONDENT.....**

**HI LIFE VENTURES PVT. LTD.,**  
No.137/1 & 2, Gunjur Village,  
Balagere Road, Varthur Hobli, BETQ,  
Bengaluru - 560087.

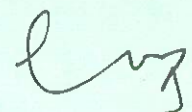
(Ex-parte)

**J U D G E M E N T**

1. This complaint is filed under section 31 of the RERA Act against the project "Hi Life Greens" developed by "Hi Life Ventures Pvt. Ltd.," situated at Sy. No.137/1, Gunjur Village, Balagere Road, Varthur Hobli, BETQ, Bengaluru – 560087 for the relief of refund with interest.
2. This project has been registered under RERA bearing Registration No. PRM/KA/RERA/1251/446/PR/180504/001598 and was valid till







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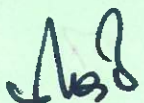
Karnataka Real Estate Regulatory Authority,

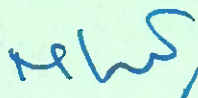
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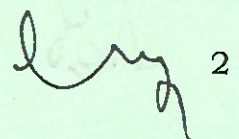
31/12/2021. The Authority has extended its registration for 9 months due to COVID-19 i.e., till 30/09/2022.

**Brief facts of the complaint are as under:-**

3. The complainant has booked an apartment bearing No.D-403 in the project of respondent and she had entered into an agreement for sale 16/02/2018 for a total sale consideration of Rs.62,58,000/- (Rupees Sixty Two Lakh Fifty Eight Thousand only) with the respondent and paid Rs.43,41,040/-(Rupees Forty Three Lakh Forty One Thousand Forty only) to the respondent on various dates. The respondent has agreed to handover possession of the said apartment on or before December 2020 as per agreement of sale. However, the respondent had failed to complete the project and to handover possession of the said apartment to the complainant as agreed and there is no progress. The builder has violated the plan by constructing one extra floor in each block. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondent remained continuously absent during the proceedings held on 01/06/2023, 14/06/2023 and 28/06/2023. Hence, in spite of providing sufficient opportunity, it is seen that the respondent has not appeared before the Authority to put forth his grievances and has not taken any interest to participate in the proceedings by filing statement of objections, producing documents if any on his behalf. Hence, he has been placed as ex-parte.
5. In support of her claim, the complainant has produced in all 3 documents such as copy of sale agreement, construction agreement and payment receipts.
6. Respondent has not produced any documents on its behalf.
7. Hearings were conducted on 01/06/2023, 14/06/2023 and 27/06/2023.





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8. Heard complainant.

9. **On the above averments, the following points would arise for our consideration:-**

1. Whether the complainant is entitled for the relief claimed?
2. What order?

10. **Our findings on the above points are as under:-**

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

**REASONS**

11. **Our findings on point No. 1:-** Contention of the complainant is that, so far she has paid sum of Rs.43,41,040/- (Rupees Forty Three Lakh Forty One Thousand Forty Only) and entered into an agreement of sale with the respondent on 16/02/2018 for a total sale consideration of Rs.62,58,000/- (Rupees Sixty Two Lakh Fifty Eight Thousand Only). The respondent was promised to handover the possession of the apartment on 21/12/2020. Hence, the respondent has failed to abide by the terms of the agreement of sale.
12. On perusal of the documents filed and submissions made before the Authority, it is evident that the complainant has paid substantial sale consideration and admittedly there is a delay for more than two years in handing over the apartment as per agreement dated 16/02/2018.
13. Hence, as per section 18(1) of RERA Act, in case the delay in handing over the flat to the allottee as per construction agreement, the promoter is liable without prejudice to any other remedy available to pay interest on the amount received by him in respect of that apartment, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided in this Act.

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14. In the judgement reported in Civil Appeal No. 3581-3590 of 2020 at para No. 23 between M/s. Imperia Structures Ltd., V/s. Anil Patni and another by the Hon'ble Supreme court it is held that,

*"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 case of Himanshu Giri came under the latter category. The RERA Act thus definitely provides a remedy to an allottee who wishes to withdraw from the Project or claim return on his investment."*

15. At this juncture, our attention is drawn towards the decision of the judgement of the Hon'ble Supreme Court of India in Civil Appellate Jurisdiction civil appeal No's.6745 – 6749 of 2021 arising out of SLP (civil) No's. 3711-3715 of 2021 between M/s. Newtech Promoters and Developers Private Limited V/s. State of UP & others, it is held as under:

*"Section 18(1) of the Act spells out the consequences if the promoter fails to complete or is unable to give possession of an apartment, plot or building either in terms of the agreement for sale or to complete the project by the date specified therein or on account*

*ASD*

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*of discontinuance of his business as a developer either on account of suspension or revocation of the registration under the Act or for any other reason, the allottee/home buyer holds an unqualified right to seek refund of the amount with interest at such rate as may be prescribed in this behalf."*

16. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only as the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.

17. The complainant has filed her memo of calculation as on 14/06/2023 claiming an amount of Rs.62,20,123/- (Rupees Sixty Two Lakh Twenty Thousand One Hundred and Twenty Three only) as refund with interest. Despite of several opportunities were given, the respondent has not filed their memo of calculation. A thorough verification of documentary evidence submitted by the complainant reveals that her claim is genuine. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest as submitted vide her memo of calculation dated 14/06/2023.

18. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under:-

**Interest Calculation From 01/05/2017 (After RERA)**

S.N O	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	2235	14-06-2023	8.15	10.15 as on 01-05-2017	0
2	16-02-2018	1,251,600	1944	14-06-2023	8.1	10.1 as on 01-02-2018	673,271
3	09-12-2018	900,000	1648	14-06-2023	8.7	10.7 as on 01-11-2018	434,801
4	28-01-2019	226,440	1598	14-06-2023	8.75	10.75 as on 10-01-2019	106,572
5	04-06-2019	563,000	1471	14-06-2023	8.65	10.65 as on 10-05-2019	241,644
6	16-03-2020	200,000	1185	14-06-2023	8.05	10.05 as on 10-03-2020	65,256
7	18-03-2020	200,000	1183	14-06-2023	8.05	10.05 as on 10-03-2020	65,146
8	19-03-2020	200,000	1182	14-06-2023	8.05	10.05 as on 10-03-2020	65,090

*AS*

*HHS*

*Long*

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S.N O	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%
9	29-05-2020	200,000	1111	14-06-2023	7.55	9.55 as on 10-05-2020	58,137
10	05-06-2020	200,000	1104	14-06-2023	7.55	9.55 as on 10-05-2020	57,770
11	16-06-2020	400,000	1093	14-06-2023	7.3	9.3 as on 10-06-2020	111,396
12	<b>TOTAL AMOUNT</b>	<b>4,341,040</b>				<b>TOTAL INTEREST ( 12 )</b>	<b>1,879,083</b>

**Memo Calculation**

PRINCIPLE AMOUNT ( A )	INTEREST ( B = I1 + I2 + I3 ) AS ON 14-06-2023	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
4,341,040	1,879,083	0	6,220,123

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

20. **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/201201/0007198 is hereby allowed.

- Respondent is hereby directed to pay the amount of Rs.62,20,123/- (Rupees Sixty Two Lakh Twenty Thousand One Hundred and Twenty Three only) towards refund along with interest to the complainant within 60 days from the date of this order, calculated at SBI MCLR+2% from 16/02/2018 till 14/06/2023.
- The interest due from 15/06/2023 up to the date of final payment shall be calculated likewise and paid to the complainant.

*[Signature]*

*[Signature]*

*[Signature]*

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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.

  
(G.R. REDDY)  
Member  
K-RERA

  
(NEELMANI N RAJU)  
Member  
K-RERA

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

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