

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 1ST AUGUST 2023

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/221108/0010228

COMPLAINANTS.....

**MR. DAMODAR MISHRA &
MRS. MONICA MISHRA
301, WING 19, SHRIRAM SUMMIT
GOLLAHALLI, ELECTRONIC CITY
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 SUMMIT**" 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 -562107 for the relief of interest on delay period.

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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.

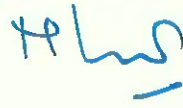
Brief facts of the complaint are as under:-

3. The complainants had purchased an apartment bearing No.19.3.01, 2nd Floor, 19th Wing, Block-03 in the project of respondent and entered into an agreement of sale on 30/04/2019 and have paid an amount of Rs.65,63,543/- (Rupees Sixty Five Lakh Sixty Three Thousand Five Hundred and Forty Three only) to the respondent till date. 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 28/06/2022 the date on which the Sale Deed was executed. The respondent has failed to handover the possession of the apartment on time as agreed. 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/representative and has filed statement of objections as under:
5. The respondent contends that the delay in completion of the project was attributed due to force majeure events such as, scarcity of raw materials, non-availability of skilled labours, lockdown imposed by the State Government due to Covid-19 pandemic in order to curb the spread of the disease, or such reasons beyond the control of the respondent and, thus the respondent was constrained to halt the

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development and could not deliver the apartment to the complainants as assured in the agreement.

6. The respondent contends that amounts paid as GST shall not be considered while computing the interest. The respondent submits 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.
7. The respondent further contends that the complainants were intimated through email dated 30/5/2022 that occupancy certificate has been received and the sale deed was registered on 28/06/2022 in favour of the complainants. The respondent submits that as per agreement of sale, it was agreed that the time for completion of the project where there arose force majeure situations would be extended for the reasons beyond the control of the respondent.
8. The respondent denies the allegations of the complainants as false and prays not to grant the relief sought for by the complainants and to dismiss the complaint.
9. The complainants in their rejoinder to the statement of objections submitted by the respondent, contend that the respondent cannot oppose the relief sought on the ground that the construction was delayed due to force majeure events, lockdown due to Covid-19 as the delivery of the flat was before start of Covid-19 pandemic period i.e. 31/12/2019 and the respondent has purposely delayed handing over possession of the apartment for more than 30 months and prays the Hon'ble Authority for directions to the respondent for paying interest on delay period. pandemic 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.

10. In support of their defence, the respondent has submitted copies of the Occupancy Certificate dtd 7/5/2022, Agreement for Sale dated 30/04/2019, email dated 30/05/2022, RERA registration, extension and covid-extension certificate, Sale Deed dated 28/06/2022 and memo of calculation as on 19/07/2023.

11. In support of their claim, the complainants have produced documents such as copies of agreement of sale, payment receipts, customer statement of account dated 31/10/2022, Sale Deed dated 28/06/2022 and memo of calculation as on 08/02/2023.

12. This matter was heard on 21/2/2023, 05/04/2023, 14/6/2023 and 20/7/2023. Heard arguments of both sides.

13. **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?

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

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

REASONS

15. **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 has failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainant till 28/06/2022.

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16. The Hon'ble Authority has perused the statement of objections filed by the respondent and detailed submissions filed by the complainants. The Hon'ble Authority has not agreed with the contentions of the respondent.
17. During the process of the hearing, 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.
18. The complainants submitted a prayer for impleading M/s Shriprop Dwellers Private Limited as a respondent in the instant complaint. The Authority has accepted the prayer accordingly.
19. The complainants vide their memo of calculation as on 08/02/2023 have claimed an amount of Rs.6,78,695/- as delay period interest as on 28/06/2022 though calculated by the complainant vide MOC link provided by RERA, the calculation was not correct and details of amount and date was not mentioned. The memo of calculation was calculated as per RERA link on 31/7/2023 according to which the delay period interest amounts to Rs.11,94,613/- (Rupees Eleven Lakh Ninety Four Thousand Six Hundred and Thirteen only).
20. The respondent vide their memo of calculation as on 19/7/2023 have submitted that the delay period interest payable to the complainants is Rs.6,57,981/- (calculated from 07/05/2022 till 28/06/2023) is not accepted, as the cut-off date would be the date of execution of the Sale Deed i.e. 28/06/2022 and the calculation of interest for delay period should have been done from 31/12/2019 till 28/6/2022.

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21. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest from 31/12/2019 to 28/06/2022.

22. 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	39,77,300	31-12-2019
2	SUBSEQUENT PAYMENT 1	4,00,000	27-02-2020
3	SUBSEQUENT PAYMENT 2	2,33,818	30-05-2020
4	SUBSEQUENT PAYMENT 3	2,00,000	05-03-2021
5	SUBSEQUENT PAYMENT 4	2,66,724	30-03-2021
6	SUBSEQUENT PAYMENT 5	4,66,728	22-06-2021
7	SUBSEQUENT PAYMENT 6	5,46,406	28-12-2021
8	TOTAL PRINCIPLE AMOUNT	60,90,976	
9	TOTAL DELAYED INTEREST as on 28/06/2022	11,94,613	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 3,977,300						
1	31-12-2019	31-01-2020	31	8.2	10.2 as on 10-12-2019	34,455
2	31-01-2020	29-02-2020	29	8.2	10.2 as on 10-01-2020	32,232
3	29-02-2020	29-03-2020	29	8.15	10.15 as on 10-02-2020	32,074
4	29-03-2020	29-04-2020	31	8.05	10.05 as on 10-03-2020	33,948
5	29-04-2020	29-05-2020	30	7.7	9.7 as on 10-04-2020	31,709
6	29-05-2020	29-06-2020	31	7.55	9.55 as on 10-05-2020	32,259
7	29-06-2020	29-07-2020	30	7.3	9.3 as on 10-06-2020	30,401

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8	29-07-2020	29-08-2020	31	7.3	9.3 as on 10-07-2020	31,415
9	29-08-2020	29-09-2020	31	7.3	9.3 as on 10-08-2020	31,415
10	29-09-2020	29-10-2020	30	7.3	9.3 as on 10-09-2020	30,401
11	29-10-2020	29-11-2020	31	7.3	9.3 as on 10-10-2020	31,415
12	29-11-2020	29-12-2020	30	7.3	9.3 as on 10-11-2020	30,401
13	29-12-2020	29-01-2021	31	7.3	9.3 as on 10-12-2020	31,415
14	29-01-2021	28-02-2021	30	7.3	9.3 as on 10-01-2021	30,401
15	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	28,375
16	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	31,415
17	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	30,401
18	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	31,415
19	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	30,401
20	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	31,415
21	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	31,415
22	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	30,401
23	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	31,415
24	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	30,401
25	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	31,415
26	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	31,415
27	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	28,375
28	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	31,415

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29	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	30,728
30	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	32,090
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 400,000						
1	27-02-2020	27-03-2020	29	8.15	10.15 as on 10-02-2020	3,225
2	27-03-2020	27-04-2020	31	8.05	10.05 as on 10-03-2020	3,414
3	27-04-2020	27-05-2020	30	7.7	9.7 as on 10-04-2020	3,189
4	27-05-2020	27-06-2020	31	7.55	9.55 as on 10-05-2020	3,244
5	27-06-2020	27-07-2020	30	7.3	9.3 as on 10-06-2020	3,057
6	27-07-2020	27-08-2020	31	7.3	9.3 as on 10-07-2020	3,159
7	27-08-2020	27-09-2020	31	7.3	9.3 as on 10-08-2020	3,159
8	27-09-2020	27-10-2020	30	7.3	9.3 as on 10-09-2020	3,057
9	27-10-2020	27-11-2020	31	7.3	9.3 as on 10-10-2020	3,159
10	27-11-2020	27-12-2020	30	7.3	9.3 as on 10-11-2020	3,057
11	27-12-2020	27-01-2021	31	7.3	9.3 as on 10-12-2020	3,159
12	27-01-2021	27-02-2021	31	7.3	9.3 as on 10-01-2021	3,159
13	27-02-2021	27-03-2021	28	7.3	9.3 as on 10-02-2021	2,853
14	27-03-2021	27-04-2021	31	7.3	9.3 as on 10-03-2021	3,159
15	27-04-2021	27-05-2021	30	7.3	9.3 as on 10-04-2021	3,057
16	27-05-2021	27-06-2021	31	7.3	9.3 as on 15-05-2021	3,159
17	27-06-2021	27-07-2021	30	7.3	9.3 as on 15-06-2021	3,057
18	27-07-2021	27-08-2021	31	7.3	9.3 as on 15-07-2021	3,159
19	27-08-2021	27-09-2021	31	7.3	9.3 as on 15-08-2021	3,159

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20	27-09-2021	27-10-2021	30	7.3	9.3 as on 15-09-2021	3,057
21	27-10-2021	27-11-2021	31	7.3	9.3 as on 15-10-2021	3,159
22	27-11-2021	27-12-2021	30	7.3	9.3 as on 15-11-2021	3,057
23	27-12-2021	27-01-2022	31	7.3	9.3 as on 15-12-2021	3,159
24	27-01-2022	27-02-2022	31	7.3	9.3 as on 15-01-2022	3,159
25	27-02-2022	27-03-2022	28	7.3	9.3 as on 15-02-2022	2,853
26	27-03-2022	27-04-2022	31	7.3	9.3 as on 15-03-2022	3,159
27	27-04-2022	27-05-2022	30	7.4	9.4 as on 15-04-2022	3,090
28	27-05-2022	27-06-2022	31	7.5	9.5 as on 15-05-2022	3,227
29	27-06-2022	28-06-2022	1	7.7	9.7 as on 15-06-2022	106
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 233,818						
1	30-05-2020	30-06-2020	31	7.55	9.55 as on 10-05-2020	1,896
2	30-06-2020	30-07-2020	30	7.3	9.3 as on 10-06-2020	1,787
3	30-07-2020	30-08-2020	31	7.3	9.3 as on 10-07-2020	1,846
4	30-08-2020	30-09-2020	31	7.3	9.3 as on 10-08-2020	1,846
5	30-09-2020	30-10-2020	30	7.3	9.3 as on 10-09-2020	1,787
6	30-10-2020	30-11-2020	31	7.3	9.3 as on 10-10-2020	1,846
7	30-11-2020	30-12-2020	30	7.3	9.3 as on 10-11-2020	1,787
8	30-12-2020	30-01-2021	31	7.3	9.3 as on 10-12-2020	1,846
9	30-01-2021	28-02-2021	29	7.3	9.3 as on 10-01-2021	1,727
10	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	1,668
11	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	1,846

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12	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	1,787
13	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	1,846
14	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	1,787
15	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	1,846
16	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	1,846
17	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	1,787
18	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	1,846
19	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	1,787
20	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	1,846
21	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	1,846
22	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	1,668
23	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	1,846
24	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	1,806
25	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	1,886
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 200,000						
1	05-03-2021	05-04-2021	31	7.3	9.3 as on 10-02-2021	1,579
2	05-04-2021	05-05-2021	30	7.3	9.3 as on 10-03-2021	1,528
3	05-05-2021	05-06-2021	31	7.3	9.3 as on 10-04-2021	1,579
4	05-06-2021	05-07-2021	30	7.3	9.3 as on 15-05-2021	1,528
5	05-07-2021	05-08-2021	31	7.3	9.3 as on 15-06-2021	1,579
6	05-08-2021	05-09-2021	31	7.3	9.3 as on 15-07-2021	1,579
7	05-09-2021	05-10-2021	30	7.3	9.3 as on 15-08-2021	1,528

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8	05-10-2021	05-11-2021	31	7.3	9.3 as on 15-09-2021	1,579
9	05-11-2021	05-12-2021	30	7.3	9.3 as on 15-10-2021	1,528
10	05-12-2021	05-01-2022	31	7.3	9.3 as on 15-11-2021	1,579
11	05-01-2022	05-02-2022	31	7.3	9.3 as on 15-12-2021	1,579
12	05-02-2022	05-03-2022	28	7.3	9.3 as on 15-01-2022	1,426
13	05-03-2022	05-04-2022	31	7.3	9.3 as on 15-02-2022	1,579
14	05-04-2022	05-05-2022	30	7.3	9.3 as on 15-03-2022	1,528
15	05-05-2022	05-06-2022	31	7.4	9.4 as on 15-04-2022	1,596
16	05-06-2022	28-06-2022	23	7.5	9.5 as on 15-05-2022	1,197
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 266,724						
1	30-03-2021	30-04-2021	31	7.3	9.3 as on 10-03-2021	2,106
2	30-04-2021	30-05-2021	30	7.3	9.3 as on 10-04-2021	2,038
3	30-05-2021	30-06-2021	31	7.3	9.3 as on 15-05-2021	2,106
4	30-06-2021	30-07-2021	30	7.3	9.3 as on 15-06-2021	2,038
5	30-07-2021	30-08-2021	31	7.3	9.3 as on 15-07-2021	2,106
6	30-08-2021	30-09-2021	31	7.3	9.3 as on 15-08-2021	2,106
7	30-09-2021	30-10-2021	30	7.3	9.3 as on 15-09-2021	2,038
8	30-10-2021	30-11-2021	31	7.3	9.3 as on 15-10-2021	2,106
9	30-11-2021	30-12-2021	30	7.3	9.3 as on 15-11-2021	2,038
10	30-12-2021	30-01-2022	31	7.3	9.3 as on 15-12-2021	2,106
11	30-01-2022	28-02-2022	29	7.3	9.3 as on 15-01-2022	1,970
12	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	1,902

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13	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	2,106
14	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	2,060
15	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	2,152
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 466,728						
1	22-06-2021	22-07-2021	30	7.3	9.3 as on 15-06-2021	3,567
2	22-07-2021	22-08-2021	31	7.3	9.3 as on 15-07-2021	3,686
3	22-08-2021	22-09-2021	31	7.3	9.3 as on 15-08-2021	3,686
4	22-09-2021	22-10-2021	30	7.3	9.3 as on 15-09-2021	3,567
5	22-10-2021	22-11-2021	31	7.3	9.3 as on 15-10-2021	3,686
6	22-11-2021	22-12-2021	30	7.3	9.3 as on 15-11-2021	3,567
7	22-12-2021	22-01-2022	31	7.3	9.3 as on 15-12-2021	3,686
8	22-01-2022	22-02-2022	31	7.3	9.3 as on 15-01-2022	3,686
9	22-02-2022	22-03-2022	28	7.3	9.3 as on 15-02-2022	3,329
10	22-03-2022	22-04-2022	31	7.3	9.3 as on 15-03-2022	3,686
11	22-04-2022	22-05-2022	30	7.4	9.4 as on 15-04-2022	3,605
12	22-05-2022	22-06-2022	31	7.5	9.5 as on 15-05-2022	3,765
13	22-06-2022	28-06-2022	6	7.7	9.7 as on 15-06-2022	744
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 546,406						
1	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	4,315
2	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	4,315
3	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	3,898
4	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	4,315

(Handwritten signature)

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

5	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	4,221
6	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	4,408
					TOTAL DELAYED INTEREST as on 28/06/2022	11,94,613

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

24. **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/221108/0010228** is hereby allowed.

Respondent is directed to pay a sum of **Rs.11,94,613/- (Rupees Eleven Lakh Ninety Four Thousand Six Hundred and Thirteen 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 28/06/2022 the date on which the Sale Deed was executed.

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.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA

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