

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/210901/0008289

COMPLAINANT.....

**MR. PRADEEP NAIK
204, NILAM PALACE
AMBIKA NAGAR, NAMDEO PATH
MANPADA ROAD
DOMBIVALI EAST
THANE - 421 201.
DISTRICT: THANE
STATE: MAHARASHTRA**

(IN PERSON)

Vs

RESPONDENT.....

**M.D. DEVELOPERS
MD RESIDENCY
NO.12, 1ST FLOOR, TALLUR POST
TALLUR-KOLLUR ROAD
KUNDAPURA TALUK
UDUPI DISTRICT - 576230.**

(By MRS. RADHANANDAN, Advocate)

*** * * * ***

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "**M.D. RESIDENCY**" developed by **M D DEVELOPERS** on Sy.No.163/9 (Old Sy.No.163/5A2), Hemmadi Village, Kundapura Taluk, Udupi District for the relief of interest on delay period.
2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1273/320/PR/180601/001827 valid till 15/10/2018. The Authority has extended its registration for a further period of 12 months i.e. till 15/10/2019.

Brief facts of the complaint are as under:-

Handwritten signature

Rs.22,99,000/- (Rupees Twenty Two Lakh Ninety Nine Thousand only) and entered into an agreement of sale and construction agreement on 29/11/2017 and has paid an amount of Rs.25,27,113/- (Rupees Twenty Five Lakh Twenty Seven Thousand One Hundred and Thirteen only) till the date of execution of Sale Deed on 13/9/2021. The respondent was supposed to hand over the possession of the flat to the complainant by 30/6/2018 with a grace period of six months i.e. latest by 30/12/2018.

4. The complainant further submits that the respondent has given possession of the flat on 13/9/2021 i.e. the date on which the sale deed was executed. Thereby the respondent has failed to handover the possession of the flat as agreed. The complainant also submits that he has suffered financial loss due to EMIs. The complainant further submits that the respondent has failed to keep the complainant informed about the progress of the project and issues that the project faced either through email or letter. The complainant submits that he has not received copy of the Occupancy Certificate obtained from the competent authority. The complainant submits that though the project is completed in October 2019 as per RERA, the respondent has failed to provide amenities as assured. Thus, the complainant has approached this Authority and prays for directions to the respondent to pay interest on delay period and give a copy of the occupancy certificate. Hence, this complaint.
5. 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:
6. The respondent contends that the construction is completed in the project in all respects and necessary Khatha has been issued by the Hemmadi Gram Panchayat. The respondent submits that the construction work was going on in full swing till 2016 and that the

Hemmadi Gram Panchayat. The respondent submits that the construction work was going on in full swing till 2016 and that the respondent faced lot of problems especially procuring sand and, as such, the project was delayed due to force majeure events such as, scarcity of raw materials or such reasons beyond the control of the respondent. This was informed to all the customers including the complainant as well as to the Authority at the time of seeking extension. The respondent further submits that the complainant after being fully satisfied with the completion and on verification and inspection of the flat opted for execution of sale deed and taking possession of the flat. Accordingly, the sale deed was executed on 13/9/2021. The complainant failed to make payments on time, which caused delay in handing over the flat to him.

7. The respondent also contends that the complainant did not come forward to pay the balance amount and get the sale deed executed. The respondent also submits that the matter was settled between both the parties much before the notice was served in the instant complaint by the Hon'ble Authority. The respondent submits that the completion certificate and occupancy certificate have been received from the competent authorities. The complainant had not even disclosed the pendency of this complaint even on the date of execution of the sale deed which goes to show that the complainant had filed this complaint before the Authority with a malafide intention and prays the Hon'ble Authority to dismiss the complaint.

8. The complainant in his written submission has submitted that the respondent had not kept him informed about the reasons for the delay in completion of the project and handing over possession of the apartment and prays this Authority for directions to the respondent to pay interest for delay period and handover copies of the completion certificate and occupancy certificate and to complete amenities. The

RERA and that is why he had agreed to execute sale deed on 13/9/2021.

9. In support of their defence, the respondent has submitted copies of the completion certificate, occupancy certificate, agreement for sale and sale deed. Despite several opportunities were given the respondent has not filed their memo of calculation.

10. In support of his claim, the complainant has produced documents such as copies of agreement of sale, construction agreement, RERA registration and extension certificates, sale deed and memo of calculation as on 6/9/2022 (calculated from 30/12/2018 to 6/9/2022).

11. This matter was heard on 6/9/2022, 2/11/2022, 12/1/2023, 28/2/2023, 5/4/2023 and 14/6/2023. Heard arguments of both sides.

12. **On the above averments, the following points would arise for my consideration:-**

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

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

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

REASONS

14. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement for sale and construction agreement to handover the apartment within 30/6/2018 with a grace period of six months i.e. latest by 30/12/2018, the respondent failed to abide by the terms of the agreement and not handed over the possession of the apartment to the complainant till 13/09/2021 the date on which the sale deed was executed.

[Handwritten signature]

the complainant till 13/09/2021 the date on which the sale deed was executed.

15. The Hon'ble Authority has perused the statement of objections, written submissions filed by the respondent and written submission filed by the complainant.
16. The complainant has cited that the respondent has not given receipts for the payments made by him and thereby there was delay in filing the complaint.
17. The respondent has also obtained the completion certificate and occupancy certificate from the competent authorities which have certified that the construction work in the project has been completed. The complainant in his complaint has submitted that there are pending works inside the apartment i.e. fixing of specific door/flat number and intercom for flat but has failed to produce any proof despite provided several opportunities.
18. Having regards to the above aspects, the Hon'ble Authority concludes that the respondent is liable to pay delay period interest to the complainant from 30/12/2018 till 13/9/2021 (the date of execution of Sale Deed).
19. Therefore, it is incumbent upon the respondent to pay interest on delay determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION	24,07,283	30-12-2018
2	SUBSEQUENT PAYMENT 1	1,19,830	13-09-2021
3	TOTAL PRINCIPLE AMOUNT	25,27,113	
4	TOTAL DELAYED INTEREST as on 13/09/2021	8,77,966	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF	MCLR RATE	INTEREST RATE	INTEREST

Handwritten signature/initials

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

2	30-01-2019	28-02-2019	29	8.75	10.75 as on 10-01-2019	20,560
3	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019	19,851
4	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019	21,978
5	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019	21,170
6	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019	21,774
7	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019	21,071
8	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019	21,672
9	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019	21,365
10	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019	20,478
11	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	20,956
12	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	20,181
13	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	20,854
14	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	20,854
15	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	19,413
16	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	20,547
17	28-04-2020	28-05-2020	30	7.7	9.7 as on 10-04-2020	19,192
18	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	19,525
19	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	18,400
20	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	19,014

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

18	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	19,525
19	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	18,400
20	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	19,014
21	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	19,014
22	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	18,400
23	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	19,014
24	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	18,400
25	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	19,014
26	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	19,014
27	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	17,174
28	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	19,014
29	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	18,400
30	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	19,014
31	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	18,400
32	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	19,014
33	28-08-2021	13-09-2021	16	7.3	9.3 as on 15-08-2021	9,814
					TOTAL DELAYED INTEREST as on 13/9/2021	6,44,559

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

21. **My answer to Point No.2:-** In view of the above discussion, I proceed to pass the following order –

relws

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


ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/210901/0008289** is hereby allowed.

Respondent is directed to pay a sum of **Rs.6,44,559/- (Rupees Six Lakh Forty Four Thousand Five Hundred and Fifty Nine only)** towards delay period interest to the complainant within 60 days from the date of this order, calculated from 30/12/2018 to 13/09/2021, the date on which the sale deed was executed.

The complainant is 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