

**BEFORE ADJUDICATING OFFICER, RERA**  
**BENGALURU, KARNATAKA**

**Presided by Sri K.PALAKSHAPPA**

**Adjudicating Officer**

**Complaint No. CMP/190311/0002401**

**Dated: 16<sup>th</sup> September 2019**

Complainant : Prashanth,  
#12, Dhanratna Nivas,  
100 ft Intermediate Ring Road,  
1<sup>st</sup> Cross, Shreenivagillu, Koramangala,  
Bengaluru-560047.

AND

Opponent :

Purva Star Properties Ltd,  
Purva Westend,  
Purvankara Limited,  
#130/1, Ulsoor Road,  
Bengaluru - 560042.  
Rep. by Kumari Sonali Advocate.

---

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

1. This Complaint is filed by the Complainant against the Developer seeking for the relief of delay compensation and delivery of possession. The facts of the complaint is as follows:

Dear Authorities, I would like to bring to KRERA attention that I purchased an yet to build apartment from Puravankara in Nov '17. My flat number is D802 in Block D. Myself along with my family members and Puravankara agreed on certain terms and signed the customer and construction agreement in Nov '18. The delivery date of the apartment was scheduled on or before 30th April 2018 and also provision for grace period of 6 months.

*[Handwritten signature]*  
16/09/19

As per the agreement the apartment should have been delivered by 30-October-2018. The apartment is not delivered till date. Though RERA act has directed the promoters to demand money on completion of the slabs, puravanka has been charging me at the commencement of the slabs. As per the RERA act, the compensation for delay is SBI highest MCLR rate + 2%. Initially we were supposed to pay the payment within 4 months after we sign the agreement as it was agreed by the sales team during the signup. We got our loans sanctioned in Feb '18 but due to NOC document missing from Purvankara side, the loan was not sanctioned till April 13th. They had sent us a statement of interest in which the delay was from their end but still asked us to pay the interest, for which we denied and asked them to check their mails as the delay was from their side. The excess amount was waived off. However once the NOC was received by the bank the bank asked us if we could release the funds, for which we gave a letter to release the same immediately. Bank without delaying further on our request and good relationship bank transferred a sum of Rs. 50,00,000 to the builder immediately and the balance was processed after the survey done. The bank officials visited site but they were denied to do the survey due to heavy work commenced at site and were requested to come back again after 10 days. The bank officials went back again after 10 days when they were able to do the survey of the complete project and do the internal paper work and were able to release the balance amount as demanded by the builder. The bank had dispatched the DD on 04/05/2018 by post which was received by them on 14/05/2018. The post office took its time in transit, how are we responsible in this delay. In this delay the builder is holding us responsible in delaying the payments and as per their one sided agreement clause they mean even a one day delay they are not liable to pay any interest in the delay of the handover of the project. They have already delayed the project by almost 3 months now and don't know by how many more months they are going to delay it. In this situation we are loosing out on the interest and the rentals what we could have earned by now by investing almost close to 1.3 crore rupees.

Relief Sought from RERA : Handover as per agreement & collection as per RERA

2. After registration of the case notice has been issued to the Respondent. The Developer has appeared through his Counsel Kumari Sonali and filed objections.
3. Heard the arguments.
4. The point that arisen for my consideration was:  
Is the complainant entitled for delay compensation?

My answer is affirmative for the following;



## REASONS

5. In fact the Developer has given his detailed reply to the Complainant by stating that

4. As regards to handing over of possession of the Comomplainant's unit:

i. completion date for the project specified in the Agreement and submitted to the Real Estate Regulatory Authority (RERA) is 31.12.2018. The Project was completed before the stipulated date and Occupancy Certificate was received on 29.12.2018, a copy of which has been attached to this reply as Exhibit -1.

ii. The Company's obligation under Clause 2 of the Agreement was to complete the construction of the Apartment on or before 31.12.2018. In support of this assertion, clause 2 of the Agreement is reproduced, which states as follows-

"The developer agrees to complete the construction of the apartment on or before 31<sup>st</sup> December 2018 or upon intimation of possession whichever is earlier. The possession of the Apartment shall be handed over simultaneously with the registration of the Sale Deed.

From a plain reading of this clause, it is abundantly clear that the obligation to complete construction is independent and distinct from handing over possession of the apartment. Whilst completion of construction is evidenced by a completion certificate and or occupancy certificate, handing over of physical possession is dependent on full performance of all obligations including but not limited to payment of all dues under the Agreements.

iii. Whilst the project was completed before 31.12.2018, it would not be feasible to complete registration of sale deeds before such date particularly given established procedures of

  
Done  
18/09/19



inspection, rectification and sign off. The company therefore submits that it has not in any way delayed completion of the project; nor has deliberately delayed handover or possession of the units. The Company further submits that the time consumed by the process of joint inspection, repairs (if any) and consequent execution and registration of the sale deeds cannot and must not be constructed or interpreted as delay in delivery of possession. Such a narrow interpretation would defeat the overall intent of the Act.

iv. The project "Purva Westend", is a large multi-storey Residential development consisting of approximately 800 residential units. For a project of this scale, possession and handover of apartments, including but not limited to the execution and registration of sale deeds needs to be conducted in a planned and organized manner. It is neither feasible nor reasonable to expect handover of all the units on the same day or within a few days of each other. In this context, it is necessary to note that handover of possession can only occur subject to an allottee's performance of his/her/their obligations under Section 19 of the Act, specifically Section 19(6), 19(7) and 19(11).

6. However at the time of the argument it was submitted on behalf of the Complainant that, though the Developer had executed the Sale Deed from the pleadings it is clear that the Complainant is the Consumer to whom the Sale Deed has been executed, even then this Complainant has sustained loss on account of non-delivery of possession on time. It means the Complainant wants to take the Compensation for the period commencing from 01-01-2019 till 10-05-2019.
7. It is the case of the Complainant that the Developer is liable to compensate him on account of delay. He had executed an Agreement of Sale in favor of the Complainant in the year 2017 where he has agreed to complete at the end of 2018. But it is the

*Devi*  
18/04/19



case of the Developer is that he has received the Occupancy Certificate before the completion and submits that there is no delay. However the Developer has executed the Sale Deed on 10/05/2019. Against the same Kumari Sonali Advocate, representing the developer drawn my attention and said that he has taken the possession of the apartment with good condition by having joint inspection. She also submits that interest is waived.

8. Therefore it is her submission that the Complainant is not entitled for any relief. As per Section 19(10) it is the duty of the Complainant to take the possession within 2 months from the date of Occupancy Certificate, the developer had executed the Sale Deed in the month of May 2019 means there is some delay for which the Developer has to pay the Delay Compensation. With this observation I hold that the complainant is entitled for the delay cause in giving the possession i.e., from 01/01/2019 to 10/05/2019.
9. Before passing the final order I would say that as per S.71 (2) RERA, the complaint will have to be closed within 60 days from the date of filing. In this case the complaint was filed on 11/03/2019. The Complainant and the Developer appeared on 03/05/2019, and as such there is some delay in completing the complaint. Hence I proceed to pass the following;

*Devi*  
*11/03/19*

## **ORDER**

The Complaint No. CMP/190311/0002401 is allowed.

- a. The developer is liable to pay the compensation in the form interest @ of 2% P.A. above the SBI rate of Marginal Lending interest on the principal amount paid by the complainant on the sale deed commencing from 01/01/2019 to the date of sale deed dated 10/05/2019 .
- b. Further the developer shall pay Rs. 5000/- as cost of the petition.
- c. Intimate the parties regarding this order.

(Typed as per dictation Corrected, Verified and pronounced on 16/09/2019)

(K.Palakshappa)  
Adjudicating Officer



# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ Comp No: 2401

ಪುಟ ಸಂಖ್ಯೆ .....

ವಿಷಯ .....

Prashanth

Purva Star Properties Ltd.

ಕಂಡಿಕೆ  
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

**CMP- 2401**

**13.10.2022**

As per the request of the complainant, the execution proceedings in the above case is taken-up for disposal in then National Lok Adalat.

The complainant Sri. Prashanth joined over phone call in pre Lok Adalat sitting held on 13.10.2022 and he has reported that the respondent/developer has complied the order passed in the above case and also has forwarded E-mail dated: 16.09.2022 in that regard. Therefore in view of the submission of the complainant, the execution proceedings in the above case have been closed as settled between the parties in the Lok Adalat. The conciliators to pass award.

13/10/22  
Judicial Conciliator.

13/10/22  
Advocate Conciliator.



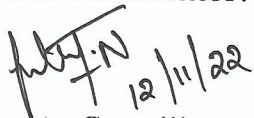
**CMP - 2401**

**12.11.2022**

**Before the Lok-Adalath**

The execution proceedings in the above case taken up before the Lok-Adalat. The execution proceedings in the above case have been settled in pre Lok Adalat sitting held on 13.10.2022 and the email dated: 16.09.2022 forwarded by the complainant in the case is hereby accepted and the said email copy shall be part and parcel of the award. Hence, the execution proceedings in the above case stands disposed off as settled and closed in the Lok Adalat.

  
Judicial Conciliator.

  
Advocate Conciliator.



**KARNATAKA STATE LEGAL SERVICES AUTHORITY**

**BEFORE THE LOK ADALAT**

**IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT  
BENGALURU**

**DATED: 12<sup>TH</sup> DAY OF NOVEMBER 2022**

**: CONCILIATORS PRESENT:**

Sri: I. F. Bidari

..... Judicial Conciliator

AND

Smt. Preethi N

..... Advocate conciliator

**COMPLAINT NO: CMP/190311/0002401**

**Between**

Mr.Prashanth

..... Complainant

AND

M/s. Purva Star Properties Ltd.,

.....Respondent

**Award**

The dispute between the parties with regard to execution proceedings having been referred for determination to the Lok Adalat and the parties having compromised/settled the matter, as per the email dated: 16.09.2022 forwarded by the complainant and complainant joined over phone call during the pre Lok Adalat sitting on dated:13.10.2022, same is accepted. The settlement entered between the parties is voluntary and legal one. The execution proceedings in the above case have been closed as settled between the parties. The email copy shall be part and parcel of the award.

  
Judicial conciliator

  
Advocate conciliator