

ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
**Real Estate Regulatory Authority Bangalore**  
ನಂ:1/14, ನೆಲ ಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್,  
ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

**BEFORE ADJUDICATING OFFICER, RERA**  
**BENGALURU, KARNATAKA**  
**Presided by Sri K.PALAKSHAPPA**  
**Adjudicating Officer**  
**Date 13<sup>th</sup> March 2020**

<b>Complaint No.</b>	<b>CMP/190801/0003287</b>
<b>Complainant</b>	Paul Varghese, 20, Vittal Mallya Road, 402 Eden Park, Bengaluru-560001.
<b>Respondent</b>	R1. B.Rajashekar, Elegant Properties, 1 <sup>st</sup> Floor, Elegant Desire, No.1, Coles Road, Frazer Town, Bengaluru-560005.  R2. Shri. Benjamin Thejesvi, S/O Late SP Francis  R3. Smt. Sujath Balaraju, D/O Late Sp Francis  R4. Nirup Francis, S/O Late Sp Francis R2 To R4 Resaiding At 602/113, Gethsemane Garden, Opp Mantri Astra Apartment, Hennuru Bande, Kalyananagara, Bengaluru – 560043

*Done*  
13/03/2020

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

1. Paul Varghese, the complainant has filed this complaint bearing Complaint no. CMP/190801/0003287 under Section 31 of RERA Act against the project 'Elegant Mount Sinnai', developed by Elegant Properties seeking relief of delay compensation. The facts of the complaint is as follows:

*May 2016 was the initial promised hand over date by the promoter and I purchased the flat in Aug 2016 from the Land Lord Benjamin Thejasthi believing that the flat will get delivered in next 3 months. Based on this I shifted my family from Mumbai to Bangalore in Nov 2016 believing that I will get the flat in next 3 months time. After getting my family in Bangalore i need to rent an apartment and need to pay rent of Rs 18000 per month on top of that i need to pay the LIC housing loan that was taken against this flat. I need to pay every month Rs 48500.00 against the loan taken. I am having three children i need to pay for the education I am struggling hard to get on with my family. as my income is not up to that level to manage this extra additional expenses. My full financial plan has been failed due to non completion of the flat. I request RERA to help in getting compensation from the date of delay to date of possession of the Flat. Thanking you, yours sincerely - Paul Varghese*

*Relief Sought from RERA : Compensation from dt of delay till handover dt*

2. In pursuance of the notice issued by the authority, the Complainant appeared in person and respondents have not at all appeared.
3. Heard arguments.
4. The points that arise for my consideration are:
  - a) Whether the complainant is entitled for relief as prayed in the compliant?
  - b) If so, what is the order?

*13671422*

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5. My answer to the above points are in the affirmative for the following

**REASONS**

6. The complainant is the allottee who has entered into agreement of sale with the developer on 12/08/2016 with respect to flat bearing No.10-D, in Wing-B Unit-D, 10<sup>th</sup> Floor. The developer has agreed to complete the project within 2 years from the date of agreement, but the same has not been completed by the developer and therefore, this complaint has been filed seeking for delay compensation. This complaint was filed against one B. Rajashekhar describing him as promoter. But during the course of the trial the complainant has given a memo stating that Mr.Benjamin Thejesvi, Mrs.Sujatha Balaraj and Mr.Nirup Francis being the land owners have jointly executed agreement of sale and therefore, he asked to issue notice to them also. Accordingly, notice has been issued to them also, but all of them remained absent. As per Sec.18, a right will accrue to the allottee to demand for delay compensation or for refund of the amount, when the developer has failed to complete the project within the due date. Therefore, the complainant is entitled for delay compensation commencing from September 2018 till the possession is delivered after obtaining occupancy certificate. The evidence given by the complainant has not been denied by the other side. Therefore, I believe the case of the complainant, hence I allowed the complaint.

*Devi*  
*12/08/2016*

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7. Before passing the final order I would like to say that as per section 71(2) of RERA the complaint shall be disposed off by the Authority within 60 days from the date of receipt of the complaint. This complaint is filed on 10/08/2019. In this case the complainant was appeared on 24/09/2019. As the respondents remained absent means the question of delay does not arise. With this observation, I proceed to pass the following.

**ORDER**

- a. The Complaint filed by the complainant bearing No. CMP/190801/0003287 is hereby allowed.
- b. The developer is hereby directed to pay delay compensation in the form of simple interest @ 2% above the MCLR of SBI on the total amount paid by the complainant commencing from September 2018 till possession is delivered after obtaining occupancy certificate with all amenities.
- c. The developer is also hereby directed to pay Rs.5,000/- as cost of the petition.
- d. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 13/03/2020).

(K.PALAKSHAPPA)  
Adjudicating Officer