

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

**Complaint No. CMP/181126/0001668**

**Presided by: Sri K.PALAKSHAPPA**

**Adjudicating Officer**

**Date: 02<sup>nd</sup> April 2019**

Complainant

:

1. CMP/181126/0001668

Veena Gowda

No. 521, 4<sup>th</sup> A Main (2<sup>nd</sup> floor),

Mahalakshmi Puram

Bengaluru Urban-560086

2. Cmp/181207/0001732

Kriti Arora

3133, Prestige Jade Pavilion,

Gear School Road, Bengaluru- 560103

3. Cmp/181201/0001698

Mr. Dattatreya Govindappanavar

No. 203, Shiva Prakruthi Apts

Talacauvery Layout, Amruthahalli

Bengaluru - 560092

4. Cmp/181205/0001718

Lingesh H

No. 8, Purvaja, 17 th main,

M.C Layout, Vijaynagar,

Bengaluru - 560040

*[Handwritten signature]*  
26/4/19

5. Cmp/181226/0001799  
Amit Punjabi  
84/A, 10<sup>th</sup> Main, 4<sup>th</sup> C Block,  
Koramangla, Bengaluru- 560034
6. Cmp/181226/0001798  
Gurudeep Singh Bains  
B-7/1903, Elita Promenade,  
JP Nagar, Phase 7, Bengaluru- 560078
7. Cmp/181210/0001739  
Sandeep Shashidhar Betkerur  
A- 301, No. 153, Kasthuri Dama,  
8<sup>th</sup> Main, 9<sup>th</sup> cross, Malleshwaram  
Bengaluru - 560003
8. Cmp/190108/0001840  
Anubhav Kothari  
B-63, Ganga Heights, 24<sup>th</sup> Cross, 18<sup>th</sup>  
Main, 1<sup>st</sup> stage, 5<sup>th</sup> block, HBR Layout  
Bengaluru - 560043
9. Cmp/ 181201/0001700  
Mr. Sunil Kumar S  
618, 8<sup>th</sup> Main, 7<sup>th</sup> Cross,  
HBR Layout, 3<sup>rd</sup> Block  
Bengaluru - 560043.
10. Cmp/181215/0001759  
Kanthi Kiran Durga Venkata  
Narayanashetty, No. 321,  
19<sup>th</sup> Main road, Vijaynagar, Mysore.

A handwritten signature in blue ink, followed by the date '26/06/19' and a small '4'.



AND

Opponent : Mantri Manyata Lithos,  
Mantri Technology Constellations Pvt. Ltd.,  
Mantra House, No. 41 Vittal Mallya Road,  
Bengaluru Urban – 560001.

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**JUDGEMENT**

1. Smt. Veena Gowda, complainant under complaint no. CMP/181126/0001658 has filed this complaint under Section 31 of RERA Act against the project “Mantri Manyata Lithos” developed by Mantri Technology Constellations Pvt. Ltd., as the complainant is the consumer in the said project. The complaint is as follows:

“1. Complainant entered into an Sale Agreement of undivided share Agreement of Construction dated 12.2.2015 with the Respondent to get the apartment No. G-202 constructed in Mantri Manyatha Lithos (said Apartment). As per clause 6.1 of the Agreement of Construction, the respondent is supposed to construct for the said apartment and handover the possession of the same as per Annexure B1. Annexure B1 to the Agreement of Construction which is a tabular sheet indicates that the date of possession is 31.07.2017. 2. Pursuant to the execution of the aforementioned Agreements the Complainant has been regularly making the payments towards Sale consideration and till date a sum of Rs. 87,33,824/- has been paid to the Respondent. 3. Vide email dated 22.06.2017 the Respondent has informed that



the timeline for completion and handing over the said Apartment is extended to end of December 2018 as against the earlier committed date of July 2018 (wrongly mentioned as July 2018 instead of July 2017). This communication came as surprise to the Complainant as there was no proper explanation given for the delay apart from the vague reason of unforeseen circumstances which are beyond our control. 4. Even before completing the construction work and obtaining the Occupancy Certificate from the concerned authorities, a representative of Respondent by name Ms. Divyashree wrote several emails to the Complainant requesting the Complainant to get the Sale Deed of the said Apartment registered and also demanded the balance sale amount. 5. The Complainant and the Respondent have pre-emi arrangements under which I had paid substantial amount of the Sale consideration and the balance is supposed to be paid at the time of handing over the possession of the said apartment. The Respondent is supposed to give interest by way of pay outs to the Complaint which has also been delayed. 6. From the above documents it is clear that the Respondent has failed to complete the project/apartment as per the commitment given to the Complainant under the Agreement of Construction. Further the Respondent has unilaterally extended the time line to hand over the said Apartment to the Complainant from July 2017 to December 2018 which is contrary to the provisions of RERA Act and Rules. 7. It is also surprising that the Respondent is now demanding additional amount of Rs. 2,000,00/- towards club house membership fee and Rs. 1,000,00 for generator charges which was not at all informed to us at the time of signing the Agreement. All this while we were under the impression that these amounts were already included in the total Sale consideration to be paid by me as per the





*Agreement between Complainant and Respondent. A sum of Rs. 20,000/- separately charged for gas connection which is supposed to be included in the construction cost. We are not bound to pay this amount as this is a new tactics which has been adopted by the Respondent to extract more money from the Complainant.*

*Relief Sought from RERA: Handing over possession, interest, compensation"*

2. In pursuance of the notice issued by this Authority, on 14/12/2018, the complainant was present through her Advocate, the respondent was also appeared through his counsel. The respondent filed objection statement and I heard the arguments. The complainant has sought for relief of delay compensation.
3. Therefore the point that arises for my consideration is Whether the complaint filed by the complainant deserves to be allowed or not?.
4. My answer is affirmative for the following

#### **REASONS.**

5. The parties have entered into agreement in the year 2014. The complainant has paid sufficient amount to the developer towards purchase of flat. The date of possession was agreed by the developer is June 2017. The Advocate representing the complainant is also representing other complainants has also filed the similar complaint against the same developer. The arguments have been submitted on behalf of all the complainants. In this connection he submit that some of the complainants have paid full consideration but some of the complainants retained last payment which was to be paid only at the time of delivery

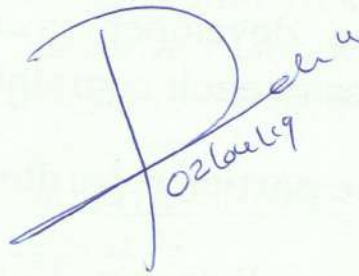
*D. J. 02/04/19*



of possession. This submission has been made by the counsel for the complainants that he wanted to say that there is no delay on the part of complainants.

6. Per contra the counsel for the developer submitted that if the complainants are seeking the delay compensation based upon the Agreement of Sale then they have to take compensation as per the agreement. It means, in the agreement delay compensation has to be paid at the rate of Rs. 3 per sq ft. In other words if the complainants want to take the compensation as per RERA, then they have no case, because the developer has given the completion date as 1/7/2019 in RERA. It means the present complaints are all pre-mature one. This kind of submission has been made on the ground that RERA Act is not retrospective.
7. But I am not going to accept his argument because it is already settled that the date mentioned in the agreement is the date of completion of the project. Therefore, the argument cannot be accepted. The complainant has produced a mail stating that the deadline for completion of project would be December 2018 in place of July 2018, but now in RERA, it is given as July 2019. It further means the delay is accepted. When that being the case the developer shall pay the Delay compensation as per RERA.

8. The learned counsel for the complainants has given citations among them many judgments produced by him are passed by the adjudicating officer. They have been referred by the counsel to say that the date of completion mentioned in the agreement is the date to be considered. There is no quarrel on these aspects. The counsel for the complainant also has referred consumer court decision to say that rate of interest be awarded at the rate of 18 % P.A. but it is not acceptable since RERA Rule 16 prescribes the rate of interest and as such I have discussed in my judgment to that effect. With this observation I proceed to pass following order.

A handwritten signature in blue ink, consisting of a large, stylized 'D' followed by the name 'Devi' and the date '02/04/19' written below it.



## ORDER

The complaints no.

1. CMP/181126/0001668
2. CMP/181207/0001732
3. CMP/181201/0001698
4. CMP/181205/0001718
5. CMP/181226/0001799
6. CMP/181226/0001798
7. CMP/181210/0001739
8. CMP/190108/0001840
9. CMP/181201/0001700
10. CMP/181215/0001759

Are allowed by directing the developer to pay delay compensation at the rate of 10.75% on the total amount paid by each complainant with respect to their respective complaint commencing from July 2018 till the possession is delivered.

Further the developer is directed to pay Rs. 5,000/- as cost to each complainant.

Intimate the parties regarding this order.

(Typed as per dictation Corrected, Verified and pronounced on 02/04/2019)

K.PALAKSHAPPA  
Adjudicating Officer