

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 5

PRESIDED BY SHRI G.R. REDDY, HON'BLE MEMBER

Dated 12th September 2024

COMPLAINT NO: CMP/220802/0009840

COMPLAINANT...

**Anitha Bakhtani
E-304, Akme Ballet Apartment
Marathhalli Outer Ring Road,
Bengaluru-560037.
STATE: KARNATAKA
(In Person)**

Vs

RESPONDENT.....

**1. Mantri Developers Pvt. Ltd.,
Mantri House,
No. 41, Vittal Malya Road,
BENGALURU-560001.
(Ex-parte)**

JUDGEMENT

- 1.This complaint is filed under section 31 of the RERA Act against the project "Mantri Webeity 3A" developed by Mantri Developers Pvt. Ltd., for the relief of refund of excess amount collected by the builder for replacement of kitchen and refund of his entire amount along with interest.
- 2.This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/310/PR/171015/000560 valid till 29-01-2019 and extended till 28-01-2020.
- 3.This project is situated at, Hennu Main Raod, Near Southern Asian Bible College, Bengaluru Urban.

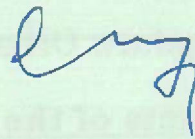
Brief facts of the complaint are as under:-

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4. The complainant had booked a flat no.U601 in the project of the respondent namely "Mantri Webcity 3A" for a total sale consideration of Rs.88,82,569/- (Rupees Eighty Eight Lakhs Eighty Two Thousand Five Hundred and Sixty Nine only). At the time of entering into an agreement of sale and construction on 30-06-2013, the complainant had paid a sum of Rs.4,95,000/- (Rupees Four Lakhs Ninety Five Thousand only) to the respondent. The complainant had paid remaining amount of Rs.83,87,569/- (Rupees Eighty Three Lakhs Eighty Seven Thousand Five Hundred and Sixty Nine only) on the various dates to the respondent. The respondent was supposed to handover the possession of the said flat along with all the promised amenities to the complainant by 31-03-2015. There is no response from the respondent, the respondent had requested for further time from the complainant and continued to promise early handover of the flat to the complainant. The respondent had executed the sale deed and handover the possession of the flat to the complainant on 18-11-2022. Hence, this complaint
5. After registration of the complaint, this Authority had issued notice to both the parties to appear before this Authority. In pursuance of the notices, the complainants have appeared before the Authority and the respondent has appeared before the Authority through his counsel and has filed statement of objections.
6. During the hearing, the complainant has filed an amended copy of his relief from refund to interest on delay period. The respondent filed his objections as under:



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7. The respondent has denied the entire allegation made against them by the complainant as false. He contends that due divergent claims made by the complainant in the complaint and in the MOC is different. On this count itself, the complaint is liable to be dismissed on the preliminary stage itself, the complaint liable to be dismissed on the preliminary stage itself. The complainant has filed the above complaint claiming a sum of Rs.7,26,718/- (Rupees Seven Lakhs Twenty Six Thousand and Seven Hundred and Eighteen only) towards delay compensation and replacement for free kitchen originally promised at the time of booking, however, in the memo of calculation filed by the complainant is for delay period interest. The complainant cannot add another claim by filing memo of calculation without the permission of this Hon'ble Authority. The complainant had satisfied from the builder as well as the statutory requirements being in the same the complainant entered into an agreement of sale and construction agreement. Hence, the respondent has prayed to this Hon'ble Authority to dismiss the complaint.
8. In support of their claim, the complainants have produced documents such as agreement of sale, bank statement, sale deed and payment receipts and memo of calculation as on 11-08-2024.
9. The respondent through his counsel appeared before the Authority and filed his statement of objections.
10. This matter was heard on 03-08-2023, 23-11-2023, 21-02-2024, 02-07-2024, 05-08-2024, and 27-08-2024.
11. **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?
12. **My answer to the above points are as under:-**

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

REASONS

13. **My answer to Point No.1:-** From the materials available on record, it is apparent that in spite of entering into agreements of sale and construction agreement having received a substantial sale consideration from the complainant, the respondent has handed over the possession of the said flat on or before 31-03-2015 but after the continuous follow ups from the complainant, the respondent had completed all amenities and handed over the flat on 18-11-2022. There is a delay of 7 years from the respondent. The complainant had filed his complaint before this Hon'ble Authority for seeking the relief of refund his excess amount which was paid to the respondent for replacement of kitchen.
14. During the hearing, the complainant had applied for change request of his relief from refund the excess amount to interest on delay period and got approved the same from the Hon'ble Authority on 05-08-2024. The complainant had filed fresh memo of calculation on 11-08-2024 for interest of delay period of Rs.65,62,875/- (Rupees Sixty Five Lakhs Sixty Two Thousand Eight Hundred and Seventy Five only).
15. Looking to the averments of agreement, the complainant and the respondent herein have entered into an agreement of sale on 30-06-2013 towards said flat bearing no.U-601 in the project '**Mantri Webcity 3A**'. The agreement of sale is a key instrument which binds the parties in a contractual relation to be enforceable in accordance with

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law, it is quite necessary that it shall be free from any ambiguity and vagueness. As per the terms of agreement of sale, the respondent was supposed to complete the said project and to handover the possession of said flat to the complainant on or before 31-03-2015.

16. Having accepted substantial sale consideration from the complainant, failing to complete the work and to handover possession of the said flat to the complainant by the respondent certainly entitles them from claiming for interest on delay period.

17. As per decision of Hon'ble Supreme Court in appeal No.6750-57/2021, M/S Newtech Promoters vs The State Of Uttar Pradesh it is held as under

Para No.22. 'If we take a conjoint reading of subsections (1), (2) and (3) of Section 18 of the Act, the different contingencies spelt out therein, (A) the allottee can either seek refund of the amount by withdrawing from the project; (B) such refund could be made together with interest as may be prescribed; (C) in addition, can also claim compensation payable under Sections 18(2) and 18(3) of the Act; (D) the allottee has the liberty, if he does not intend to withdraw from the project, will be required to be paid interest by the promoter for every months' delay in handing over possession at such rates as may be prescribed'.

18. The said principle laid down in the above decision is aptly applicable to the present case on hand.

19. As per sec.18 of RERA Act, the respondent is liable to pay interest on delay period. Considering the entire materials available on record, the delay in handing over possession being apparent, this Authority see no legal impediment in allowing the complaint as prayed. The complainant had paid Rs.88,82,569/-(Rupees Eighty Eight Lakhs

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Eighty Two Thousand Five Hundred and Sixty Nine only)to the respondent towards sale consideration.

20. A thorough verification of the documentary evidence submitted by the complainant reveals that his claim is genuine. Having regard to all these aspects, this Authority concludes that the complainant is entitled for interest on delay period as submitted vides his memo of calculation as on 11-08-2024.

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	88,82,569	31-03-2015
2	TOTAL DELAYED INTEREST as on 18/11/2022	65,62,875	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 88,82,569						
1	31-03-2015	30-04-2015	30		9	65,706
2	30-04-2015	30-05-2015	30		9	65,706
3	30-05-2015	30-06-2015	31		9	67,896
4	30-06-2015	30-07-2015	30		9	65,706
5	30-07-2015	30-08-2015	31		9	67,896
6	30-08-2015	30-09-2015	31		9	67,896
7	30-09-2015	30-10-2015	30		9	65,706
8	30-10-2015	30-11-2015	31		9	67,896
9	30-11-2015	30-12-2015	30		9	65,706
10	30-12-2015	30-01-2016	31		9	67,896
11	30-01-2016	29-02-2016	30		9	65,706
12	29-02-2016	29-03-2016	29		9	63,516
13	29-03-2016	29-04-2016	31		9	67,896

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14	29-04-2016	29-05-2016	30			9	65,706
15	29-05-2016	29-06-2016	31			9	67,896
16	29-06-2016	29-07-2016	30			9	65,706
17	29-07-2016	29-08-2016	31			9	67,896
18	29-08-2016	29-09-2016	31			9	67,896
19	29-09-2016	29-10-2016	30			9	65,706
20	29-10-2016	29-11-2016	31			9	67,896
21	29-11-2016	29-12-2016	30			9	65,706
22	29-12-2016	29-01-2017	31			9	67,896
23	29-01-2017	28-02-2017	30			9	65,706
24	28-02-2017	28-03-2017	28			9	61,326
25	28-03-2017	28-04-2017	31			9	67,896
26	28-04-2017	28-05-2017	30			9	65,706
27	28-05-2017	28-06-2017	31	8.15	10.15 as on 01-06-2017		76,572
28	28-06-2017	28-07-2017	30	8.15	10.15 as on 01-06-2017		74,102
29	28-07-2017	28-08-2017	31	8.15	10.15 as on 01-07-2017		76,572
30	28-08-2017	28-09-2017	31	8.15	10.15 as on 01-08-2017		76,572
31	28-09-2017	28-10-2017	30	8.15	10.15 as on 01-09-2017		74,102
32	28-10-2017	28-11-2017	31	8.15	10.15 as on 01-10-2017		76,572
33	28-11-2017	28-12-2017	30	8.1	10.1 as on 01-11-2017		73,737
34	28-12-2017	28-01-2018	31	8.1	10.1 as on 01-12-2017		76,195
35	28-01-2018	28-02-2018	31	8.1	10.1 as on 01-01-2018		76,195
36	28-02-2018	28-03-2018	28	8.1	10.1 as on 01-02-2018		68,821
37	28-03-2018	28-04-2018	31	8.35	10.35 as on 01-03-2018		78,081
38	28-04-2018	28-05-2018	30	8.35	10.35 as on 01-04-2018		75,562
39	28-05-2018	28-06-2018	31	8.35	10.35 as on 01-05-2018		78,081
40	28-06-2018	28-07-2018	30	8.45	10.45 as on 01-06-2018		76,292
41	28-07-2018	28-08-2018	31	8.45	10.45 as on 01-07-2018		78,835
42	28-08-2018	28-09-2018	31	8.45	10.45 as on 01-08-2018		78,835
43	28-09-2018	28-10-2018	30	8.65	10.65 as on 01-09-2018		77,752
44	28-10-2018	28-11-2018	31	8.7	10.7 as on 01-10-2018		80,721
45	28-11-2018	28-12-2018	30	8.7	10.7 as on 01-11-2018		78,117
46	28-12-2018	28-01-2019	31	8.75	10.75 as on 10-12-2018		81,099
47	28-01-2019	28-02-2019	31	8.75	10.75 as on 10-01-2019		81,099
48	28-02-2019	28-03-2019	28	8.75	10.75 as on 10-02-2019		73,250
49	28-03-2019	28-04-2019	31	8.75	10.75 as on 10-03-2019		81,099
50	28-04-2019	28-05-2019	30	8.7	10.7 as on 10-04-2019		78,117
51	28-05-2019	28-06-2019	31	8.65	10.65 as on 10-05-2019		80,344
52	28-06-2019	28-07-2019	30	8.65	10.65 as on 10-06-2019		77,752
53	28-07-2019	28-08-2019	31	8.6	10.6 as on 10-07-2019		79,967
54	28-08-2019	28-09-2019	31	8.45	10.45 as on 10-08-2019		78,835
55	28-09-2019	28-10-2019	30	8.35	10.35 as on 10-09-2019		75,562

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56	28-10-2019	28-11-2019	31	8.25	10.25 as on 10-10-2019	77,327
57	28-11-2019	28-12-2019	30	8.2	10.2 as on 10-11-2019	74,467
58	28-12-2019	28-01-2020	31	8.2	10.2 as on 10-12-2019	76,949
59	28-01-2020	28-02-2020	31	8.2	10.2 as on 10-01-2020	76,949
60	28-02-2020	28-03-2020	29	8.15	10.15 as on 10-02-2020	71,632
61	28-03-2020	28-04-2020	31	8.05	10.05 as on 10-03-2020	75,818
62	28-04-2020	28-05-2020	30	7.7	9.7 as on 10-04-2020	70,817
63	28-05-2020	28-06-2020	31	7.55	9.55 as on 10-05-2020	72,046
64	28-06-2020	28-07-2020	30	7.3	9.3 as on 10-06-2020	67,896
65	28-07-2020	28-08-2020	31	7.3	9.3 as on 10-07-2020	70,160
66	28-08-2020	28-09-2020	31	7.3	9.3 as on 10-08-2020	70,160
67	28-09-2020	28-10-2020	30	7.3	9.3 as on 10-09-2020	67,896
68	28-10-2020	28-11-2020	31	7.3	9.3 as on 10-10-2020	70,160
69	28-11-2020	28-12-2020	30	7.3	9.3 as on 10-11-2020	67,896
70	28-12-2020	28-01-2021	31	7.3	9.3 as on 10-12-2020	70,160
71	28-01-2021	28-02-2021	31	7.3	9.3 as on 10-01-2021	70,160
72	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	63,370
73	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	70,160
74	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	67,896
75	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	70,160
76	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	67,896
77	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	70,160
78	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	70,160
79	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	67,896
80	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	70,160
81	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	67,896
82	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	70,160
83	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	70,160
84	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	63,370
85	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	70,160
86	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	68,626
87	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	71,668
88	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	70,817
89	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	73,932
90	28-08-2022	28-09-2022	31	8	10.0 as on 15-08-2022	75,440
91	28-09-2022	28-10-2022	30	8	10.0 as on 15-09-2022	73,007
92	28-10-2022	18-11-2022	21	8.25	10.25 as on 15-10-2022	52,382
					TOTAL DELAYED INTEREST as on 18/11/2022	65,62,875

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21. Accordingly the point raised above is answered in the Affirmative.

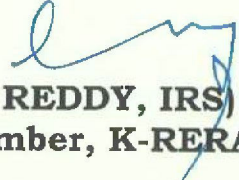
22. **My answer to point No.2:-** In view of the above observation, I am of the opinion that this complaints are deserves to be allowed. Hence, I proceed to pass the following:

ORDER

23. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/220802/0009840** is hereby allowed.

- 1 Respondent is hereby directed to pay a sum of Rs.65,62,875/- (Rupees Sixty Five Lakhs Sixty Two Thousand Eight Hundred and Seventy Five only) towards interest on delay period calculated at MCLR + 2% from 31-03-2015 till 18-11-2022 to the complainant within 60 days from the date of this order.
- 2 The complainant is at liberty to initiate action for recovery in accordance with law if the respondent fails to comply with the order of this Authority.

No order as to costs.


(G R REDDY, IRS)
Member, K-RERA

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