

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 22<sup>nd</sup> AUGUST 2024**

**PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU**

**COMPLAINT NO.:00254/2024**

**COMPLAINANT.....**

**NARESH KUMAR BATHALA  
SHRIRAM BLUE  
H0501, SY.NO.123  
MEDAHALLI, KADUGODI ROAD  
SONNENAHALLI COLONY  
KRISHNARAJAPURAM  
BANGALORE-560048.**

**(IN PERSON)**

**Vs**

**RESPONDENTS.....**

**1. MAARS INFRA DEVELOPERS  
PRIVATE LIMITED  
NO.3, 12<sup>TH</sup> CROSS, 6<sup>TH</sup> MAIN  
MALDESHWARAM  
BANGALORE-560003.**

**2.SHRIRAM PROPERTIES PVT LTD  
NO.31, OLD NO.192  
2<sup>ND</sup> MAIN ROAD  
T. CHOWDAIAH ROAD  
SADASHIVANAGAR  
BANGALORE-560080.**

**(By MR. J.P. DARSHAN, ADVOCATE  
& OTHERS)**

**\* \* \* \* \***

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

1. This complaint is filed under section 31 of the RERA Act against the project "SHRIRAM BLUE" developed by MAARS INFRA DEVELOPERS PVT LTD situated at Sy.No.11 (P), Seeghalli Village, KR Puram Hobli, Bangalore East, Bangalore Urban District for the relief of interest on delay period.

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2. This project has been registered under RERA bearing Registration No.PRM/KA/RERA/1251/446/PR/180728/001966 valid till 16/07/2021. The project was extended due to Covid-19 for a period of 9 months till 16/04/2022. The Authority has further extended its registration for a further period of 12 months i.e. till 16/04/2023. The Authority has granted further extension till 30/11/2023.

**Brief facts of the complaint are as under:-**

3. The complainant had booked a flat bearing No.H.05.01, 5<sup>th</sup> Floor, Tower-H, Building-2 on 18/9/2018 in the project of the respondent and entered into an agreement of sale dated 17/11/2018 for a total sale consideration of Rs.77,18,221/- and has paid Rs.71,92,007/- (Rupees Seventy One Lakh Ninety Two Thousand and Seven only) (as per the statement of account dated 12/12/2022 issued by the respondent company) to the respondent on various dates. The respondent was supposed to hand over the possession of the flat to the complainant by 14/03/2022 with the grace period of six months i.e. by 14/09/2022, but the possession of the flat was handed over and sale deed was executed in favour of the complainant on 22/09/2023 with a delay of an year. The respondents have failed to complete the project and deliver the possession of the flat within the stipulated time as agreed. The occupancy certificate for the entire project is still pending as work is still going on. The respondents were able to get partial O.C. for Tower-H on 31/3/2023. The complainant has complied with the terms of the agreement. The respondents have taken extension without obtaining the complainant's consent. The complainant submits that instead of paying compensation for the delay, the respondents offered a discount of Rs.1,75,000/- which the complainant rejected. The complainant could not negotiate further and went ahead with registration and execution of sale deed on 22/09/2023. The complainant submits that as per RERA he is entitled for Rs.10,30,444/- as delay period interest. Thus, the complainant has approached this Hon'ble Authority and

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prays for directions to the respondents to pay interest on delay period.  
Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondents have appeared before the Authority through their representative/counsel and have filed their statement of objections as under:

5. The respondents contend that the complainant is not entitled for the relief sought by them in the present complaint and that they have filed the present complaint to reap profits and hence the complaint is liable to be dismissed.

6. The respondents submit that they secured development plan from BDA dated 26/4/2018 for the above property and sanction plan dated 16/7/2018 from BBMP for construction. The respondents agreed to construct residential apartment comprising of Building-1 and Building-2. The respondents submit that being satisfied with the title of the land on which the project is being developed, the complainant desirous to purchase a flat approached the respondent expressed willingness to purchase flat No.A.04.02, 4<sup>th</sup> Floor, Building No.1, Tower-A and entered into the agreement for sale dated 17/11/2018. According to the agreement, the respondents were supposed to handover possession of the above said flat by 14/03/2022 with a grace period of six months i.e. latest by 14/09/2022.

7. The respondents submit that although the plan was granted by the competent authority, the construction in the project was delayed due to foundations faced with the challenge of hard rock and it took one and a half year to complete the foundation.

8. The above project was further delayed due to spread of Covid-19 pandemic and lockdowns imposed throughout the country. As such, the complainants flat could not be completed and that the delay in completion of the project was due to force majeure conditions which was beyond the control of the respondents.



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9. In spite of the above hurdles, the respondents have completed the construction with great difficult by hiring more manpower, secured the partial occupancy certificate dated 31/3/2023 and final occupancy certificate dated 02/06/2023 from the competent authority. The respondents submit that a substantial number of homebuyers have come forward, executed the sale deed and are living in their respective flats without any hurdles or difficulties. The respondents submit that they have also acquired all necessary NOCs and approvals from various authorities as per law. The complainant satisfied with the completion of the project, came forward and executed sale deed on 22/09/2023 with respect to the above said flat and is enjoying peaceful possession with all amenities in the residential complex.

10. The respondents contend that in the said sale deed executed on 22/09/2023, the complainant has discharged the respondents of their obligation under the agreement for sale dated 17/11/2018 and have not claimed any interest on delay. The respondents submit that after taking the possession of the above said flat with the intention of reaping rich fruits and harass them, the complainant has filed this complaint before the Hon'ble Authority by making false and baseless allegations against them. After discharging the respondents of their obligations under the agreement for sale after execution of sale deed and taking possession of the flat, the complainant is e-stopped from claiming any compensation from the respondents on the basis of the agreement for sale.

11. The respondents submit that the reading of section 18(1) proviso and section 19(4) the right to claim compensation by an allottee in case they do not wish to withdraw from the project only available till handing over possession and execution of sale deed, the complainant cannot claim delay period interest after taking delivery/possession of the flat.

12. The respondents contend that after discharging their obligations under the agreement for sale, after execution of sale deed and taking possession of

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the flat, the complainant is e-stopped from claiming any compensation from them on the basis of the said agreement for sale as in accordance with Section 62 of the Contract Act which reads as "if the parties to a contract agree to substitute a new contract for it, or to rescind or alter it, the original contract need not be performed". The respondents contend that upon execution of the sale deed on 22/9/2023, a new contract is executed and hence the clauses mentioned in the original contract i.e. agreement for sale dated 17/11/2018, the clauses of the sale deed shall prevail.

13. The respondents pray this Hon'ble Authority to dismiss the complaint in the interest of justice and equity.

14. The complainant in his rejoinder to the objections filed by the respondents has submitted that they strongly object that they have filed this complaint to reap profit which is false. The respondent was supposed to handover the aforesaid flat by 14/03/2022 with a grace period of six months i.e. latest by 14/09/2022. The complainant submits that the respondents have obtained partial O.C. for Tower-H on 31/3/2023 where his flat is located. The complainant submits that even during Covid-19 pandemic he didn't default on any of the scheduled payments to the respondents. The complainant submits that he did not withdraw from the project and requested the respondents for interest on delay period, the respondents denied to compensate as per clause 34.2 of the agreement of sale and instead offered Rs.1,75,000/- as compensation which was not accepted. The complainant submits that he went ahead with the registration and execution of sale deed on 22/09/2023 and that the respondents are liable to pay Rs.10,30,444/- towards delay period interest to him.

15. In support of their defence, the respondents have submitted copies of the documents such as Agreement of Sale, occupancy certificate dated 02/06/2023, sale deed executed on 22/09/2023 and RERA registration & extension certificates.

*Handwritten signature*

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16. In support of his claim, the complainant has produced documents such as copies of Agreement of Sale, statement of account issued by respondent company dated 12/12/2022, email correspondences with the respondent and memo of calculation as on 26/05/2024.

17. This case was heard on 5/6/2024 and 8/8/2024. Heard arguments of both sides.

18. **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?

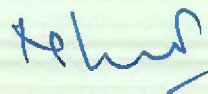
19. **My answer to the above points are as under:-**

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

**REASONS**

20. **My answer to point No.1:-** From the materials placed on record, it is apparent that in spite of entering into an agreement for sale to handover the apartment within 14/03/2022 with a grace period of six months i.e. latest by 14/09/2022, the respondent has failed to abide by the terms of the agreement and has handed over the possession of the above said flat to the complainant and executed sale deed on 22/09/2023. Hence, the respondent is liable to pay interest for the delay period.

21. From the averments of the complaint and the copies of agreement between the parties, it is obvious that the respondent has delayed handing over the above said flat to the complainant by one year and executed the sale deed only on 22/09/2023. Having accepted the said amount and failure to keep up promise to handover possession of the flat within stipulated time, certainly entitles the complainant herein for delay period interest.



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22. During the process of the hearing, the Authority has perused the statement of objections filed by the respondent and written submissions, rejoinder filed by the complainant.

23. The agreement of sale is a key instrument which binds the parties in a contractual relation so as to be properly enforced in accordance with law, and hence, it is necessary that it shall be free from any ambiguity and vagueness. Here, in this case, the respondents have not complied with the terms of the said agreement for sale. Therefore, the Authority has not accepted the contentions/submissions of the respondents made in their statement of objections, as they have failed to handover the above said flat to the complainant within stipulated time as agreed.

24. At this juncture, my attention is drawn towards the decision of the Hon'ble Supreme Court in Appeal No.6750-57/2021 M/s Newtech Promoters v/s The State of Uttar Pradesh which is held as under:-

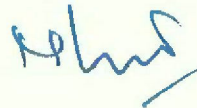
**"Para No.22:** If we take a conjoint reading of subsections (1), (2) and (3) of Section 18 of the Act, the different contingencies spelt out therein –

(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 under sections 18(2) & 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 month's delay in handing over possession at such rates as may be prescribed."



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25. The complainant vide his memo of calculation as on 26/05/2024 has claimed an amount of Rs.10,30,444/- as interest on delay period calculated from 14/03/2022 to 22/09/2023, whereas the calculation for delay period interest should have been done from 14/09/2022 onwards. The Hon'ble Authority has not accepted the memo of calculation filed by the complainant.

26. Despite several opportunities were given, the respondent has not filed their memo of calculation.

27. Having regard to all these aspects, this Authority concludes that the complainant is entitled for delay period interest from 14/09/2022 to 22/09/2023, the date on which the sale deed was executed by the respondents.

28. Therefore, it is incumbent upon the respondent to pay interest on delay period determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	66,35,423	14/03/2022
2	TOTAL DELAYED INTEREST as on 22/09/2023	7,12,638	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 66,35,423						
1	14/09/2022	14/10/2022	30	8	10.0 as on 15-08-2022	54,537
2	14/10/2022	14/11/2022	31	8	10.0 as on 15-09-2022	56,355
3	14/11/2022	14/12/2022	30	8.25	10.25 as on 15-10-2022	55,901
4	14/12/2022	14/01/2023	31	8.35	10.35 as on 15-11-2022	58,328



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5	14/01/2023	14/02/2023	31	8.6	10.6 as on 15-12-2022	59,736
6	14/02/2023	14/03/2023	28	8.6	10.6 as on 15-01-2023	53,955
7	14/03/2023	14/04/2023	31	8.7	10.7 as on 15-02-2023	60,300
8	14/04/2023	14/05/2023	30	8.7	10.7 as on 15-03-2023	58,355
9	14/05/2023	14/06/2023	31	8.7	10.7 as on 15-04-2023	60,300
10	14/06/2023	14/07/2023	30	8.7	10.7 as on 15-05-2023	58,355
11	14/07/2023	14/08/2023	31	8.7	10.7 as on 15-06-2023	60,300
12	14/08/2023	14/09/2023	31	8.75	10.75 as on 15-07-2023	60,582
13	14/09/2023	22/09/2023	8	8.75	10.75 as on 15-08-2023	15,634
14					TOTAL DELAYED INTEREST as on 22/09/2023	7,12,638

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

30. My answer to Point No.2:- In view of the above discussion, the complaint deserves to be allowed. Hence, I proceed to pass the following order -

**ORDER**

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.00254/2024 is hereby allowed.


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Respondents are directed to pay a sum of **Rs.7,12,638/-**  
**(Rupees Seven Lakh Twelve Thousand Six Hundred and**  
**Thirty Eight only)** towards delay period interest to the  
complainants within 60 days from the date of this order,  
calculated at MCLR + 2% from 14/09/2022 till 22/09/2023,  
the date on which the sale deed was executed in favour of the  
complainant.

The complainant is at liberty to initiate action for recovery in  
accordance with law if the respondents fail to pay the amount  
as per the order of this Authority.

No order as to the costs.

  
(Neelmani N Raju)  
Member, K-RERA

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