

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.:01292/2023**

**COMPLAINANTS.....**

**KAPIL CHANDRIKA PANDEY  
& PUNAM KAPIL PANDEY  
A303, SHRIRAM SOUTHERN CREST APT  
KANAKAPURA MAIN ROAD  
OPP METRO PILLAR EP-67  
J.P. NAGAR 6<sup>TH</sup> PHASE  
BANGALORE-560078.**

**(THROUGH SKYPE  
ALSO AUTHORIZED BY HIS WIFE  
PUNAM KAPIL PANDEY ON HER  
BEHALF)**

**Vs**

**RESPONDENT.....**

**SHRIPROP PROJECTS PVT LTD  
NO.40/43, 8<sup>TH</sup> MAIN, 4<sup>TH</sup> CROSS  
SADASHIV NAGAR  
BANGALORE-560080.**

**(BY MR. JOSEPH ANTHONY,  
ADVOCATE & OTHERS,  
JSM LAW PARTNERS)**

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

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

35.This complaint is filed under section 31 of the RERA Act against the project "SHRIRAM SOUTHERN CREST" developed by SHRIPROP PROJECTS PRIVATE LIMITED situated at Sy. Nos. 39, 40, 41 & 42/3A, Municipal No.243/254/41, 1 to 9/83/93 to 101 of Jaranganahalli Village, Uttarahalli Hobli , Bangalore South Taluk, Bengaluru Urban District for the relief of interest on delay period.

Mhs

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36.This project has been registered under RERA vide registration No. PRM/KA/RERA/1251/310/PR/171014/000364 and is valid till 31/12/2019. The Authority extended its validity till 30/6/2021. Further Covid-19 extension was given for a period of 9 months i.e. till 30/3/2022. The Authority has extended the validity of the registration for a further period of 12 months i.e. till 30/3/2023. The project has been blocked by RERA as the completion date for this project is expired.

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

37.On 20/1/2016 the complainants have booked a flat bearing No.A.03.03, 3<sup>rd</sup> Floor, Tower-A in the project of the respondent by paying Rs.1,00,000/- to the respondent. The agreement for sale and construction agreement was executed on 23/3/2017. The complainants have paid Rs.99,48,665/- to the respondent on various dates. The respondent was supposed to handover the possession of the flat within three years from the date of executing construction agreement with the grace period of six months i.e. by 23/9/2020. The complainants submit that they have taken housing loan from SBI and ensured that the amount mentioned in the demand notes raised by the respondent was released by the bank without any delay. The complainants submit that due to the delay of nearly two years, they have lost bank interest and rent. They have to undergo mental stress due to financial constraints. The respondent has handed over possession of the above said flat and executed sale deed on 9/9/2022 and the partial occupancy certificate was issued by BBMP on 26/9/2022. The complainants submit that they sent several emails and made phone calls to the Customer Relationship Management Team for interest on delay period, the CRM team mentioned that no compensation will be paid for the delay as they have got extension for the project till March

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2023 by RERA. Thus, the complainants have approached this Hon'ble Authority for interest on delay period. Hence, this complaint.

38. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its representative/counsel and has filed statement of objections as under:

39. The respondent contends that the complainants are not entitled for seeking relief of interest on delay period and the complaint is filed with an intention of reaping profits through instant litigation. Hence, the complaint is liable to be dismissed. The respondent denies all the allegations made in the complaint as false.

40. The respondent submits that they were approached by the land owners of the above mentioned property to construct, develop residential flats. The respondent entered into JDA which got them right to construct and develop the aforesaid land into residential flats with name and style "Shriram Southern Crest" which is duly registered under RERA.

41. The complainants desirous of buying a flat bearing No.A.03.03, Tower-A, 3<sup>rd</sup> Floor in the above project, approached the respondent and booked the flat. They entered into agreement for sale dated 23/3/2017. The respondent submits that they have received partial occupancy certificate on 26/9/2022 from the competent authority and that they had communicated to the complainants and called upon them to come forward and register the sale deed. Accordingly, the sale deed was executed on 9/9/2022 and the complainants are in possession of the flat and enjoying all the amenities provided by the respondent.

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42.The respondent submits that the aforesaid project was not completed within the stipulated time due to the spread of Covid-19 pandemic followed by nation-wide lockdowns, non-availability of raw materials, skilled labours, transport disruption or such reasons beyond the control of the respondent. The respondent submits that the project has been completed and sale deed has been executed on 9/9/2022. The complainants though aware of the above facts have approached the Hon'ble Authority seeking relief of interest on delay period.

43.The respondent submits that on a conjoint reading of section 18 and 19 of RERA Act, it makes clear that the promoter shall be liable to pay the delay period interest only if he fails to deliver the property within the stipulated time. However, in the instant case, the RERA has extended the timeline for completing the project owing to various force majeure conditions prevailing in the country and thus it cannot be said the respondent has failed to abide by the terms of the agreement. As such, the complainants are not entitled for any relief before this Authority.

44.The respondent submits that the respondent has challenged the delay period interest ordered by this Hon'ble Authority in earlier cases before the Hon'ble High Court of Karnataka in Writ Petition No.4363/2024 and the Hon'ble High Court has passed an interim order dated 19/2/2024 staying the order passed by this Hon'ble Authority wherein it was reiterated the fact that, in cases where the date of delivery itself was extended by RERA, for the same period RERA ought not to have ordered to pay delay period interest.

45.Thus the respondent contends that when there is no delay, the relief sought by the complainants in the instant complaint deserves to be dismissed without granting any reliefs.

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46. In support of their defence, the respondent has submitted copies of documents such as Agreement of Sale, partial occupancy certificate, sale deed dated 9/9/2022, email communication, interim order dated 19/2/2024 passed by the Hon'ble High Court of Karnataka in W.P.No.4363/2024 (GM-RES) RERA registration & extension certificates.

47. In support of their claim, the complainants have produced documents such as copies of Sale Deed, partial occupancy certificate dated 26/9/2022, agreement for sale, construction agreement, allotment letter, booking form, sale deed dated 9/9/2022, partial occupancy certificate dated 26/9/2022 issued by BBMP and memo of calculation as on 06/11/2023 for delay period interest (calculated from 23/9/2020 till 9/9/2022, the date on which the sale deed was executed by the respondent in favour of the complainants).

48. This case was heard on 12/12/2023, 11/1/2024, 12/3/2024, 28/5/2024, 2/7/2024 and 8/8/2024. Heard arguments of both sides.

49. **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?

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

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

**REASONS**

51. **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 and



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construction agreement to handover the above said flat within three years from the date of executing construction agreement with a grace period of six months i.e.23/9/2020, the respondent has failed to abide by the terms of the agreement and has handed over the possession of the flat and executed sale deed in favour of the complainants on 09/09/2022 with a delay of nearly two years.

52.From the averments of the complaint and the copies of agreement and sale deed executed between the parties, it is obvious that the complainants have got possession of the above said flat on 09/09/2022 after a delay of nearly two years. Having accepted the total sale consideration amount and delay in handing over possession of the flat, certainly entitles the complainants herein for delay period interest.

53.During the process of the hearing, the Hon'ble Authority has perused the statement of objections filed by the respondent and written submissions filed by the complainants.

54.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 respondent has not complied with the terms of the said agreement for sale. Therefore, the Authority has not accepted the contentions of the respondent made in their statement of objections, as they have failed to handover the above said flat to the complainants within stipulated time as agreed.

55.The Hon'ble Authority clarified to the respondent that the extension given to the respondent by RERA is to complete the project and it cannot be taken as extension of date of handing over possession of the flat to the allottees.

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56. 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."

57. The complainants vide their memo of calculation as on 06/11/2023 have claimed an amount of Rs.15,31,620/- as delay period interest calculated from 23/9/2020 to 09/09/2022, the date on which the sale deed was executed by the respondents in favour of the complainants.

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

59. Having regard to all these aspects, this Authority concludes that the complainants are entitled for delay period interest of Rs.15,31,620/- from 23/9/2020 till 09/09/2022 the date on which the sale deed was executed by the respondent in favour of the complainants.

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

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Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	80,99,548	23/09/2020
2	SUBSEQUENT PAYMENT 1	2,59,000	17/07/2021
3	SUBSEQUENT PAYMENT 2	2,00,000	20/05/2022
4	SUBSEQUENT PAYMENT 3	3,75,000	08/06/2022
5	SUBSEQUENT PAYMENT 4	10,15,117	08/09/2022
6	TOTAL PRINCIPLE AMOUNT	99,48,665	
7	TOTAL DELAYED INTEREST as on 09/09/2022	15,31,620	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 80,99,548						
1	23/09/2020	23/10/2020	30	7.3	9.3 as on 10-09-2020	61,911
2	23/10/2020	23/11/2020	31	7.3	9.3 as on 10-10-2020	63,975
3	23/11/2020	23/12/2020	30	7.3	9.3 as on 10-11-2020	61,911
4	23/12/2020	23/01/2021	31	7.3	9.3 as on 10-12-2020	63,975
5	23/01/2021	23/02/2021	31	7.3	9.3 as on 10-01-2021	63,975
6	23/02/2021	23/03/2021	28	7.3	9.3 as on 10-02-2021	57,784
7	23/03/2021	23/04/2021	31	7.3	9.3 as on 10-03-2021	63,975
8	23/04/2021	23/05/2021	30	7.3	9.3 as on 10-04-2021	61,911
9	23/05/2021	23/06/2021	31	7.3	9.3 as on 15-05-2021	63,975



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10	23/06/2021	23/07/2021	30	7.3	9.3 as on 15-06-2021	61,911
11	23/07/2021	23/08/2021	31	7.3	9.3 as on 15-07-2021	63,975
12	23/08/2021	23/09/2021	31	7.3	9.3 as on 15-08-2021	63,975
13	23/09/2021	23/10/2021	30	7.3	9.3 as on 15-09-2021	61,911
14	23/10/2021	23/11/2021	31	7.3	9.3 as on 15-10-2021	63,975
15	23/11/2021	23/12/2021	30	7.3	9.3 as on 15-11-2021	61,911
16	23/12/2021	23/01/2022	31	7.3	9.3 as on 15-12-2021	63,975
17	23/01/2022	23/02/2022	31	7.3	9.3 as on 15-01-2022	63,975
18	23/02/2022	23/03/2022	28	7.3	9.3 as on 15-02-2022	57,784
19	23/03/2022	23/04/2022	31	7.3	9.3 as on 15-03-2022	63,975
20	23/04/2022	23/05/2022	30	7.4	9.4 as on 15-04-2022	62,577
21	23/05/2022	23/06/2022	31	7.5	9.5 as on 15-05-2022	65,351
22	23/06/2022	23/07/2022	30	7.7	9.7 as on 15-06-2022	64,574
23	23/07/2022	23/08/2022	31	7.8	9.8 as on 15-07-2022	67,414
24	23/08/2022	09/09/2022	17	8	10.0 as on 15-08-2022	37,723
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 2,59,000						
1	17/07/2021	17/08/2021	31	7.3	9.3 as on 15-07-2021	2,045

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2	17/08/2021	17/09/2021	31	7.3	9.3 as on 15-08-2021	2,045
3	17/09/2021	17/10/2021	30	7.3	9.3 as on 15-09-2021	1,979
4	17/10/2021	17/11/2021	31	7.3	9.3 as on 15-10-2021	2,045
5	17/11/2021	17/12/2021	30	7.3	9.3 as on 15-11-2021	1,979
6	17/12/2021	17/01/2022	31	7.3	9.3 as on 15-12-2021	2,045
7	17/01/2022	17/02/2022	31	7.3	9.3 as on 15-01-2022	2,045
8	17/02/2022	17/03/2022	28	7.3	9.3 as on 15-02-2022	1,847
9	17/03/2022	17/04/2022	31	7.3	9.3 as on 15-03-2022	2,045
10	17/04/2022	17/05/2022	30	7.4	9.4 as on 15-04-2022	2,001
11	17/05/2022	17/06/2022	31	7.5	9.5 as on 15-05-2022	2,089
12	17/06/2022	17/07/2022	30	7.7	9.7 as on 15-06-2022	2,064
13	17/07/2022	17/08/2022	31	7.8	9.8 as on 15-07-2022	2,155
14	17/08/2022	09/09/2022	23	8	10.0 as on 15-08-2022	1,632
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 2,00,000						
1	20/05/2022	20/06/2022	31	7.5	9.5 as on 15-05-2022	1,613
2	20/06/2022	20/07/2022	30	7.7	9.7 as on 15-06-2022	1,594
3	20/07/2022	20/08/2022	31	7.8	9.8 as on 15-07-2022	1,664
4	20/08/2022	09/09/2022	20	8	10.0 as on 15-08-2022	1,095
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 3,75,000						
1	08/06/2022	08/07/2022	30	7.5	9.5 as on 15-05-2022	2,928
2	08/07/2022	08/08/2022	31	7.7	9.7 as on 15-06-2022	3,089
3	08/08/2022	08/09/2022	31	7.8	9.8 as on 15-07-2022	3,121

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4	08/09/2022	09/09/2022	1	8	10.0 as on 15-08-2022	102
INTEREST CALCULATION FOR SUBSEQUENT PAYMENT 10,15,117						
					TOTAL DELAYED INTEREST as on 09/09/2022	15,31,620

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

62. **My answer to Point No.2:-** In view of the above discussion, the above 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. **01292/2023** is hereby allowed.

Respondents are directed to pay a sum of **Rs.15,31,620/- (Rupees Fifteen Lakh Thirty, One Thousand Six Hundred and Twenty only)** towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 23/9/2020 till 09/09/2022, the date on which the sale deed was executed by the respondent in favour of the complainants.

The complainants are at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.

No order as to costs.

  
(Neelmani N Raju)  
Member, K-RERA

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*[Handwritten signature]*

(Member, KERRA)  
Member, KERRA