

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 18TH June 2024

COMPLAINT NO: CMP/200116/0005094

COMPLAINANT...

**Shreyanshu Pavas
N2-071,
SNN Raj Neeladri Doddathoguru Village,
Neeladri Road,
Electronic City Phase-1,
Bengalore-560100.**

STATE: KARNATAKA

(Mr. Mohan Kumar, Advocate)

Vs

RESPONDENTS.....

**1. Mantri Developers Pvt Ltd.,
No.41, Vittal Malya Road,
BENGALURU-560001.**

(Miss. Jasleen Kaur, Advocate)

**2. Pratik Sushil Mantri
No.41, Vittal Malya Road,
BENGALURU-560001.**

(Ex-parte)

**3. Sushil Pandurang Mantri
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 Webcity 2A**" developed by M/s Mantri Developers Pvt Ltd., seeking for the relief of interest on delay period, completion of the project and possession of flat.

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2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/310/PR/171015/000608 valid till 28-02-2020.

3. Said project is situated at Hennur Main Road, Near Southern Asian Bible College, Bengaluru South, Bengaluru Urban.

Brief facts of the complaint are as under:-

4. The complainant had booked a flat bearing No.F-701, in the project of respondent "Mantri Webcity" of the respondent in December 2013 for a total sale consideration of Rs.74,52,281/- (Rupees Seventy Four Lakhs Fifty Two Hundred and Eighty One Thousand only). Later, the said flat was cancelled and new flat bearing no. G-503 was booked in January 2014 for a total sale consideration of Rs.74,94,724/- (Rupees Seventy Four Lakhs Ninety Four Thousand Seven Hundred and Twenty Four only) in pursuance of the same agreement. The complainant had paid a sum of Rs.63,83,130/- (Rupees Sixty Three Lakhs Eighty Three Thousand One Hundred and Thirty only) to the respondent on various dates. The respondent was agreed to complete the project and handover the said flat to the complainant on 31-07-2016 as per agreement of sale and construction agreement both dated 23-12-2023. However, the respondent has failed to complete the project and handover the possession of the said flat as agreed. Due to the delay in completion the complaint is undergoing immense mental agony. He would have earned a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) by renting out the apartment. Hence this complaint.

5. After registration of the complaint, this Authority had issued notice to both the parties to appear before this Authority. In

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pursuance of the notices, the complainant advocate had appeared before the Authority and filed a memo of calculation, statement of bank account, payment receipts agreements of sale and construction. The counsel of respondent no.1 has appeared before the Authority and he had filed his statement of objections as under:

6. According to him the complainant has not paid the entire instalment as per schedule of payment as agreed. Admittedly, the complainant had paid a sum of Rs.63,83,130/- (Rupees Sixty Three Lakhs Eighty Three Thousand One Hundred and Thirty only) and he is still in due of certain amount to the respondent. The date for completion and delivery of possession as per construction agreement was on 31-07-2016 subject to receiving the occupancy certificate. Due to certain force majeure conditions such as variations on account of delay on the part of the authorities, labour strikes, non-availability of steel, sand, cement and such other vital building materials, rules, notification of the Government and other public or competent authority or any dispute or matter relating to the property pending final determination by the Court, or such reasons that is beyond the control of the Respondent et. It is pertinent to mention here that, in such events the Respondent shall not be held responsible for the delay in completing the project and the complainants shall not be entitled to claim any damages/losses against the Respondent under these circumstances on the ground of delay/deficiency.

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7. Further, contended that due to the factors which were beyond the control of this respondent he could not complete the project as agreed. He had to face multiple legal issues from the neighbours during excavation. In order to cut the hard rock the licence for blasting the rock was required. Due to heavy rain fall and flood in the project site and due to demonetization of currency illegal sand mining mafia, shortage of materials and covid 19 pandemic lockdown there is a delay in completing the project.

8. The respondent has undertaken to complete the said project by 31-03-2019. He has filed the application for further extension of registration is pending for consideration. Hence, prayed to dismiss the complaint.

9. In support of their claim, the complainant had produced documents such as copies of agreement of sale and construction, bank statement, payment receipts and memo of calculation as on 12-06-2024.

10. This matter was heard on 19-07-2022, 16-08-2022, 07-09-2022, 18-01-2023, 28-02-2023, 31-05-2023, 12-07-2023 and 23-11-2024.

11. **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?

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:-** The complainant had approached this forum seeking for the relief of interest on delay period and requesting for handing over the possession. The grounds urged are that the complainant had booked a flat bearing No.G-503 in 'GM Global Techies Town Tower C' in the project of the respondent by entering into an agreement of sale on 25-09-2020. As per the said agreement, the respondent was supposed to handover possession of the said flat to the complainants on February 2022, but the respondent has not handed over the possession of the said flat to the complainant as agreed. The complainant had tried to contact with the builder to know the status of the project, but he did not have any clarity of the completion of the project. . In spite of receiving the substantial sale consideration, the respondent had not handed over the possession to the complainant.

14. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 23-12-2013. The agreement of sale is a key instrument which binds the parties in a contractual relation to be enforceable in accordance with 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 handover the possession of said

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flat to the complainants in February 2022. The respondent sent a mail to the complainant to complete the registration process on 24-03-2024 and if they do not come forward for registration, the respondent will take the necessary steps to expediate the process. The respondent did not have the required permissions for registration process and occupancy certificate. The complainants had asked the necessary details, there is no response from their end.

15. 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'.

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

14. 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

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allowing the complaint as prayed. The complainant had paid Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty Thousand only) to the respondent towards sale consideration.

15. In response to the notice, the respondent has not taken any interest to participate in the proceedings and to resist the claim of complainant. Hence, the claim of complainants remained unchallenged and her claim is corroborated with cogent materials. There is no reason to discard the claim of complainants.

16. The complainant had claimed of Rs. 48,41,855/- (Rupees Forty Eight Lakhs Forty One Thousand Eight Hundred and Fifty Five only) as interest on delay period vide their memo of calculation as on 12-06-2024 calculated from 31-07-2016 to 15-04-2024. Despite opportunities given, the respondent has not filed his memo of calculation. Having regard to all these aspects, this Authority concludes that the complainant is entitled for interest on delay period from 31-07-2016.

17. The complainant had established their claim by producing cogent evidence i.e. agreement of sale and construction dated 23-12-2013, payment receipts, bank statement and memo of calculation etc.,.

18. A thorough verification of the documentary evidence placed by the complainants reveals that their claim is genuine. Having regard to all these aspects, this Authority concludes that the complainants are entitled for interest on delay period

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as submitted vides their memo of calculation as on 12-06-2024.

MEMO OF CALCULATION			
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	29,83,341	31-07-2016
2	SUBSEQUENTY PAYMENT 1	16,204	05-11-2016
3	SUBSEQUENTY PAYMENT 2	6,67,205	09-11-2016
4	SUBSEQUENTY PAYMENT 3	20,670	06-12-2016
5	SUBSEQUENTY PAYMENT 4	6,67,205	07-01-2017
6	SUBSEQUENTY PAYMENT 5	6,73,877	10-03-2017
7	SUBSEQUENTY PAYMENT 6	13,411	11-03-2017
8	SUBSEQUENTY PAYMENT 7	6,60,667	21-03-2017
9	SUBSEQUENTY PAYMENT 8	6,673	25-03-2017
10	SUBSEQUENTY PAYMENT 9	6,67,205	13-07-2017
11	SUBSEQUENTY PAYMENT 10	6,672	23-08-2017
12	TOTAL PRINCIPLE AMOUNT	63,83,130	
13	TOTAL DELAYED INTEREST AS ON 12/06/2014	48,41,855	

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

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

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016,

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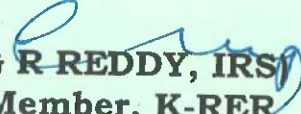
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the complaint bearing No. **CMP/220922/0010043** is hereby allowed.

1. Respondent is hereby directed to pay a sum of **Rs.48,41,855/- (Rupees Forty Eight Lakhs Forty One Thousand Eight Hundred and Eighty Five only)** towards interest on delay period as on 12-06-2024 calculated from 31-07-2016 to 15-04-2024 to the complainant within 60 days from the date of this order.
2. The interest due from 16-04-2024 up to the date of final payment will be calculated likewise and paid to the complainants.
3. Respondent is directed to complete all the pending works in the flat bearing no.G-503, as per agreement and execute the sale deed of flat and hand over the possession of the same to the complainant within 60 days from the date of this order.
4. 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-RER

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