

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

Dated 17th JANUARY 2025

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/721/2024

COMPLAINANT : 1. Mr.Sandeep Vaman Palekar
2. Ms.Amruta Purushottam Jogalekar

Both are residing at No.101,
Wing 20, Shriram Summit
Electronic City, Phase-I
Bangalore : 560 100

(Nagesha Poojary – Advocate)

RESPONDENT / PROMOTER : 1. M/s.Shriram Properties Pvt Ltd.
No.40/43, 8th Main, 4th Cross,
Sadashiv Nagar, Bengaluru:560080

2. M/s.Shriprop Dwellers Pvt Ltd.
No.31, 2nd Main, T.Chowdaiah Road
Sadashiva Nagar,
Bangalore : 560080

(M/s.Trust Law Advocates & Solicitors)

PROJECT NAME & : SHRIRAM SUMMIT
REGISTRATION NO. PRM/KA/RERA/1251/308/PR/
171015/001121



J U D G E M E N T

This complaint is filed under Sec-18 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project SHRIRAM SUMMITT praying for a direction to pay delay period interest.

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. The complainants have entered into an agreement of sale on 07.09.2019. The project completion date as per agreement was 31.12.2019. The complainants have paid an amount of Rs.51,50,000/- (Rupees Fifty One Lakhs Fifty thousand only) to the respondents. Since there was delay of more than two years in handing over the apartment, the complainants have filed the above complaint before the Authority praying for Delay Period Interest.
2. On a perusal of the sale agreement, it is seen that the completion date is agreed as 31.12.2019. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.12.2019. In cases where in the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee, this complaint is admissible for relief in accordance with Section 18 of the Act.
3. After registration of the complaint, notice was sent to both complainants and respondent to appear before the authority on 17.12.2024. In pursuance of the notice, issued by the Authority, the Complainants appeared through their advocate and filed MOC along with supporting documents. The complainants have also filed



written submissions enclosing the copies of sale agreement, payment receipts, bank statement, sale deed in support of their claims. The Complainants are directed to serve the same on the respondents and produce copy of the acknowledgement for having served on the respondents. Respondents were absent and final opportunity was given to the Respondents to file vakalath and statement of objections, if any and the hearing was adjourned to 07.01.2025.

4. On 07.01.2025, Complainants advocate appeared and filed proof for having served MOC and supporting documents on the respondents. Respondents advocate appeared and filed vakalath without filing statement of objections and prayed for time to file objections. Though during the last hearing on 17.12.2024 final opportunity was given to the respondents to file objections on the next date of hearing. However, the respondents failed to file statement of objections on 07.01.2025. Still on the request of the Respondents, time was granted to the Respondents to file their objections till 13.1.2025 and thereafter, the matter will be posted for orders.

5. On 10.01.2025, the Respondents filed their statement of objection. In the statement of objection, the Respondents have contended that the project has not been completed within stipulated time due to force majeure events such as excavation of rocks or such reasons beyond the control of the respondents. The Respondents also contended that the project was close to the



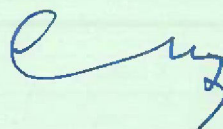
tertiary nala and suit before NGT caused stoppage of the works. In addition COVID-19 pandemic and the lockdown have also contributed significantly to the obstacles faced by the respondents. In support of their defence, the Respondents have produced various documents like Occupancy Certificate dated 7.5.2022, RERA Registration Certificate, sale deed, order passed by the NGT, Copy of the order passed by the Hon'ble Supreme Court of India and other documents. The respondents have sought to explain the delay by referring to above issues which are nothing but routine requirements of compliances and construction related issues which are required to be handled by the Promoter of any project who has undertaken to develop the real estate project. None of the reason submitted by the Respondent has any force and legal validity to justify the delay in completion of the project and provide any exception from the application of Section-18 of the Act. Therefore, as per Section 18 of the Act, the promoter is liable pay the delay period interest.

6. From the above averments, the following points would arise for my consideration:

- a) Whether the complainants are entitled for the relief claimed?
- b) What order?

7. My findings on the above points are as under:

- a) In the affirmative
- b) As per the final order



FINDINGS ON THE ABOVE POINTS

8. From the documents produced by both the Complainants and the Respondents before the Authority, it is seen that the completion date agreed as 31.12.2019. The promoter-respondents was required to complete the project and hand over possession of the apartment by 31.12.2019. The Respondents have failed to complete and handover possession of the apartment to the complainants before the completion date. Admittedly, the sale deed is executed on 21.06.2022 with a delay of more than 2 years. Hence the complainants are entitled to delay period interest u/s 18 of the Act and the Respondents are liable to pay the delay period interest to the Complainants.

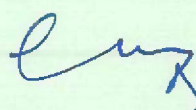
9. Further, one of the contentions raised by the respondents for delay in completing the project is on account of Covid-19. As stated earlier, the delivery and completion of the project is December, 2019 and the actual Covid-19 pandemic started during the year 2020 and the respondents cannot plead before the Authority Covid-19 pandemic as the reason for delay in completing the project. The Respondents have obtained occupancy certificate and executed the registered sale deed on 21.06.2022 with a delay of more than 2 years. Therefore, the exemption sought by the Respondents on account of Covid-19 for calculation of delay period interest for 9 months is not tenable and the same is not agreed by the Authority. Further, the Respondents have not kept the RERA Authority informed about the litigation before NGT at the time of registration



nor had intimated the complainants about the ongoing dispute and could delay their project. The Respondents could have taken longer time for completion at the time of seeking registration of the project. The onus is on the promoter to inform the complainants at the time of registration of the apartment by the Complainants and not keeping the customers in dark. The fact remain that the amounts paid remained with the respondents and there is a cost associated with it to the complainants recognised by the Act. On a perusal of the documents filed and submissions made before the Authority, it is evident that complainants have paid advance sale consideration amount and admittedly there is a delay of more than two years in handing over the apartment as per the agreement. Hence the complainants are entitled to delay period interest u/s 18 of the Act as per the memo of calculation submitted by the Complainants.

10. The Respondents have not filed any objection to the MOC filed by the Complainants nor have the Respondents filed their MOC. Therefore, the MOC filed by the complainants is taken on record for consideration. Further, the Respondents claimed exemption in payment of delay period interest to the complainants on account of NGT Order, Covid-19 etc. The exemption claimed by the Respondents is not acceptable as per the reasons mentioned above at para nos.5 & 9.

11. Accordingly, the **point (a)** raised above is answered in the affirmative.



12. **Findings on Point No.b:** In view of the above observations, I conclude that this complaint deserves to be allowed and accordingly, I proceed to pass the following:

ORDER

1. In exercise of the powers conferred under Section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing CMP/721/2024 is hereby allowed.

2. Respondents are directed to pay interest on delay period at the rate of SBI MCLR + 2 from 31.12.2019 till the date of possession. The promoter shall pay the interest for the delay period as arrived at by the complainant amounting to Rs.12,77,074/ (Rupees Twelve lakhs seventy seven thousand seventy four only) within 60 days from the date of this order.

3. The complainants is 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.


(G.R. REDDY)

MEMBER
FIFTH ADDITIONAL BENCH
K-RERA

