

Date of filing: 05.09.2024
Date of Disposal: 17.10.2025

BEFORE THE KARNATAKA STATE CONSUMER DISPUTES
REDRESSAL COMMISSION, BENGALURU
(PRINCIPAL BENCH)

DATED: 17th DAY OF OCTOBER 2025

CORAM: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA – PRESIDENT
and

Mrs. DIVYASHREE M – LADY MEMBER

SC/29/CC/69/2024

BETWEEN:

Ruma Mohandas Gopani
W/o Anil Nathani
Age 36 years,
R/at DLF Westend Heights,
C2-144, DLF Newtown,
Akshaya Nagar,
Bengaluru-68. **Complainant/s**

(Party-in-person)

AND:

1. Frontier Shelters Pvt., Ltd.,
No.422, 2nd floor,
Opp.Goshala, 80 feet road,
6th block, Koramangala,
Bengaluru-95.
2. Chinappa Anand
No.183, 18th main road,
3rd cross, 6th block,

Koramangala,
Bengaluru-95. **Opposite Party/s**

(By Smt.Rama.R.Iyer, Advocate)

ORAL ORDER

(PER: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA, PRESIDENT)

This Complaint is filed U/s.35(1)(a) R/w Sec.47 of Consumer Protection Act, 2019 (in short CP Act) alleging deficiency in service on the part of Opposite party Nos.1 & 2 (in short OPs) and seeking direction against them:

- (a) To provide in time-bound manner legal possession of the flat at the earliest along with the amenities listed in construction agreement and as promised in brochure.
- (b) To pay additional delayed legal possession rent at Rs.80,000/- per month for apartment until legal possession is provided.
- (c) To pay interest amount of Rs.2,65,128/- with interest at 18% p.a. from the date of legal possession of construction agreement for the loan amount of Rs.20 lakhs.
- (d) To pay a sum of Rs.2 lakhs towards the payment of litigation expenses.



- (e) To pay Rs.50,000/- towards the expenses incurred for telephone communication and personal visits to OP.
- (f) To pay a sum of Rs.3 lakhs as compensation for causing mental agony, deficiency in service etc.,
- (g) Pass such further order as this Commission deem fit and proper in the facts and circumstances of the case.

2. The Brief facts of the case are that; the Complainant is resident of Bengaluru. She was searching for flat for her family. OP.1 is a builder and OP.2 is Managing Partner of OP.1. OPs have undertaken construction of a new residential building at Haralur village, Varthur hobli, Bengaluru east taluk in the name of 'Frontier Heights.' Through brochures and advertisements on website, she came to know the project and visited the OPs. During such visit, she was promised to provide world class living with modern facilities in the said project. Believing their words, she booked 3+ Study BHK Apartment bearing no.5091 (measuring 1937 sqft), 9th floor, Frontier Heights



Building and paid booking amount of Rs.3 lakhs. They entered into sale and construction agreements dtd.26.08.2019. After entering into such agreements, she has paid installments of Rs.47 lakhs on 28.08.2019, Rs.15 lakhs on 31.08.2019, Rs.17,43,794/- on 15.11.2019, Rs.5 lakhs on 30.11.2019 and Rs.4,43,923/- on 28.12.2024, thus in all she has paid Rs.91,87,717/- i.e. 95% of the sale consideration amount. To pay the amount, she has borrowed loan of Rs.20 lakhs from HDFC bank and repaid the same with interest of Rs.2,65,128/- and closed the loan account.

2(a) As per terms of construction agreement, OPs have undertaken to deliver the flat on or before 31.03.2020 with six months grace period which is evidenced by clause 21(d) of the said agreement. If there would be any delay, there is a specific clause in the said agreement i.e. clause 21(e) which speaks 'rental compensation of Rs.5/- per sq ft., per month on super build up area.' The said compensation is grossly inadequate, unfair and does not reflect the prevailing market rental rates, which are significantly higher,



ranging from Rs.80,000/- per month in the said locality. OPs have played unfair trade practice at the time of booking of the flat promising to deliver the legal possession of the flat with all the amenities including Occupancy Certificate. But they did not adhere to their promise and made the Complainant to suffer. Hence, the Complainant is entitle to the relief referred supra.

3. OPs have opposed the complaint by filing the version admitting the project undertaken, booking of flat by the Complainant; money received; expected date of delivery, but denied the receipt of Rs.91,87,717/- which is said to be 95% of the sale consideration. They denied the allegations that in case of delay, their liability to pay delay compensation and also unfair trade practice. It is their contention that, they have used good quality materials; common amenities are provided; construction was completed as per the specifications in the construction agreement. They have made all efforts to get approval from necessary authorities. Project was completed as agreed except some delay due to wrongful extension by RERA and also due to stay order operating

against OPs in civil litigation before Hon'ble High Court of Karnataka. Major portion of the work has been completed. They are ready to handover the possession once the remaining payments are made and also the RERA extension is granted. The Commission has no jurisdiction to deal with the complaint and sought for dismissal of the complaint.

4. The Complainant has filed affidavit evidence as CW-1 and marked 9 documents as Ex-C1 to C9. On behalf of OPs, Authorized Representative has filed affidavit evidence as RW-1 and 4 documents marked as Ex-R1 to R4. Both sides have filed written arguments.

5. We have heard the husband of the Complainant and Learned Counsel for OPs apart from considering their written arguments.

6. It is the contention of Learned Counsel for OPs that, they are trying to complete the project. There are several cases filed against OPs. Hence, requested this Commission not to pass final order till March 2026.



7. We gave our anxious consideration to the arguments addressed by both sides and also written arguments and materials placed on record.

8. Now the points that arise for our consideration are:

(i) Whether OPs have committed deficiency in service ?

(ii) Whether the Complainant is entitled to the relief sought for ?

Point (i):

9. There is no dispute as to OP.1 is a builder and OP.2 is its Managing partner. They have entered into JDA with the owners of the land and undertaken the project of constructing residential building consisting of 266 flats at Haralur village, Varthur hobli, Bengaluru east taluk in the name of 'Frontier Heights', wherein sharing of developed property is at the ratio of 35%:65%. 35% belongs to owner of the land and 65% belongs to the Ops. The Complainant has booked 3+ Study BHK Apartment bearing no.5091 (measuring 1937sqft), 9th floor, Frontier Heights Building and



entered into sale and construction agreement/ Ex-C2 & C3 dtd.26.08.2019 with Ops. Ex-C5/payment receipts clearly points out that Complainant has paid a sum of Rs.91,87,717/- as against total sale consideration of Rs.96,71,522/- which is 95% of cost of the flat. Ex-C9 is the photographs which show incomplete construction of the building.

10. OPs have admitted that they did not complete the project as agreed upon as there is stay order operating against them in civil litigations before RERA and Hon'ble High Court of Karnataka. To substantiate the same, they have produced Ex-R3 & R4. Ex-R3 is the order passed in OS.No.26300/2021, dtd.03.12.2022 by 73rd Addl., City Civil and Sessions Court, Bengaluru. Ex-R4 is the order passed in MFA.No.8736/2022 (CPC) C/w MFA.No.8587/2022 (CPC), dtd.11.08.2023 by Hon'ble High Court of Karnataka, Bengaluru. On perusal of the order of Hon'ble Apex Court, it is undisputed facts that, out of 266 flats in the project, as per agreed share of 35% & 65%, 93 flats would go to owner of the land and remaining 173 flats would go to builder/OPs. Hon'ble



High Court restrained the OPs from selling 54 flats till disposal of the suit. Thus, it will not debar the OPs to complete the construction since even 54 flats have been restrained from selling, still more than 200 flats are reserved for alienation.

11. Evidence of both parties clearly demonstrates that time line for completion and delivery of the possession was 31.03.2020 + 6 months grace period. But till now, the project is incomplete. Therefore, OPs having received 95% of the amount from the Complainant, failed to deliver the possession of the flat and made the Complainant to wait for several years which amounts to deficiency in service. Accordingly we answer point (i).

Point (ii):

12. The Complainant is asking for legal possession of the flat along with agreed amenities listed in Annexure.II of the construction agreement/Ex-C3. Submission on behalf of OPs clearly indicates the intention of OPs that they are not intended to complete



the project even before March 2026. Therefore Complainant cannot be made to wait at the whims and fancies of OPs. Hence, the Complainant is legally entitled to claim legal possession of the flat with amenities as agreed in the construction agreement along with Occupancy Certificate. Accordingly Complainant has to be granted the reliefs.

13. As regarding delay compensation is concerned, OPs are bound to pay at Rs.5/- per sqft., per month as agreed in the agreements since intention of OPs makes very clear that even agreed to complete the project by March 2026 till they did not complete. Hence OPs are liable to pay delay compensation at Rs.5/- per sqft., per month on 1937 sqft., from 01.10.2020 till the date of delivery of the flat. When the parties are agreed under contract to pay and receive Rs.5/- per sqft., there is no evidence which speaks, it is inadequate. Complainant cannot enrich himself on the basis of delay, which speaks of various factors including litigation. We are not persuaded to hold that delay compensation is inadequate.



14. The act of OPs certainly caused mental agony and financial loss to the Complainant. It is therefore, OPs are liable to pay compensation of Rs.10 lakhs and litigation cost of Rs.1 lakh. Accordingly we answer point (ii).

15. In view of our findings on point (i) & (ii), we pass the following:

ORDERS

- (i) The complaint is allowed in part.**
- (ii) OPs.1 & 2 are directed to complete the project within three months from the date of receipt of certified copy this order and deliver the legal possession of the flat no.5091 by providing amenities as agreed under Annexure - II of the construction agreement/Ex-C3 along with Occupancy Certificate.**
- (iii) OPs.1 & 2 are directed to pay delay compensation at Rs.5/- per sqft., per month on 1937 sqft., from**



01.10.2020 till the date of delivery of the flat.

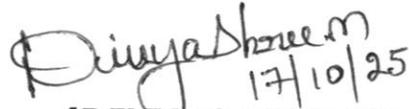
(iv) OPs.1 & 2 are directed to pay compensation of Rs.10 lakhs towards mental agony, and litigation cost of Rs.1 lakhs to the Complainant.

(v) OPs.1 & 2 are directed to comply this order within three months from the date of receipt of this order.

(vi) Supply free copy of this Order to both the parties.



**(T.G.SHIVASHANKARE GOWDA)
PRESIDENT**

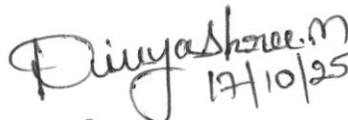

17/10/25
**(DIVYASHREE M)
LADY MEMBER**

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<u>ANNEXURES</u>	
01.	<u>Witnesses examined on behalf of Complainant/s:-</u>
CW.1	Ruma Mohandas Gopani, the Complainant.
<u>Documents marked on behalf of Complainant/s:-</u>	
Ex-C1	Copy of Brochure
Ex-C2	Copy of agreement of sale
Ex-C3	Copy of construction agreement
Ex-C4	Copy of demand notices
Ex-C5	Copy of payment receipts
Ex-C6	Copy of RERA certificate-Form C
Ex-C7	Copy of loan amount and interest occurred on the loan
Ex-C8	Copy of email communications
Ex-C9	Copy of present site pictures
03.	<u>Witnesses examined on behalf of OPs</u>
RW-1	Priya Raman, Authorized Representative of OPs
04.	<u>Documents produced on behalf of OP/s</u>
Ex-R1	Copy of Board resolution
Ex-R2	Copy of certificate for extension of registration of project
Ex-R3	Temporary injunction order in OS.26300/21 by 73 rd Addl., City Civil and Sessions Judge, Mayohall unit, Bengaluru
Ex-R4	Order passed by Hon'ble High court in MFA.8736/22 C/w MFA.8587/22



**(T.G.SHIVASHANKARE GOWDA)
PRESIDENT**



**(DIVYASHREE M)
LADY MEMBER**

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