

**IN THE KARNATAKA REAL ESTATE REGULATORY  
AUTHORITY, BENGALURU**

**COMPLAINT NO.CMP/210505/0007943**

**DATED THIS 4<sup>TH</sup> DAY OF JUNE, 2022**

**COMPLAINANT**

MR.Ahammed Mirdas  
Flat No.1604 Q Wing,  
Purvankara Palm Beach  
Near to SAIACS CEO Center  
Kothanur PO, Hennur  
Bengaluru : 560077

**RESPONDENT/PROMOTER**

M/S.PURAVANKARA LIMITED  
Reg. Office # 130/1, Ulsoor  
Road, Bengaluru : 560 042

**PROJECT NAME &  
REGISTRATION NUMBER**

PURVA PALM BEACH  
PRM/KA/RERA/1251/446/PR/  
170907/000091

**PRESENT**

**HON'BLE CHAIRMAN SHRI.H.C.KISHORE CHANDRA**

**AND**

**HON'BLE MEMBER SHRI.D.VISHNUVARDHANA REDDY**

**AND**

**HON'BLE MEMBER SMT NEELAMANI N.RAJU**

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This Complaint is filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 before this Authority praying for a direction to allot Covered Tandem Car Parking in Block 3 without charging additional amount and further sought for a direction not to sell open car parking.

### J U D G M E N T / O R D E R

#### FACTS OF THE CASE

1. The complainant vide complaint No. CMP/210505/0007943 dated 05-05-2021 filed u/s 31 of the Act has sought relief in the form of directing the promoter to allot a covered tandem car parking in the Ground Floor of Block No.3, without charging any additional amount. Complainant has also sought a direction from the Authority to the effect that the promoter shall not be permitted to sell open car parking.
2. Further submissions of the complainant include that his apartment bearing Q-1604 in Block No.3 'Q' Wing is required to be provided with a tandem car parking as per the Agreement for Sale; that the parking allotted is in Basement of Block No.1, which has no lift and stair case access from Block No.3; that the complainant is required to drop elderly people and leave the luggage unattended in Block No.3, park the car in Block No.1 basement and then climb the staircase with 24 steps to go up,

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which is unacceptable for an apartment costing Rs.1.25 crores; that NOC by fire and emergency services and OC clearly show that there is no basement floor for Block No.3 and the car parking for Block No.3 should be allotted in the ground floor; that all the documents attached are mentioned as covered tandem parking, without any mention of basement or Block No.1 where the car parking is allotted. The complainant has also stated that the respondent-promoter has demanded Rs.15,38,720/- to allocate two car parking in the ground floor of Block No.3, which can be verified from the Email dated 15-04-2021.

3. The complaint was heard on 28-10-2021 and 01-12-2021. The complainant has appeared in person and the respondent is represented by Sri K. Anandarama, Adovcate.
4. The respondent has submitted that the complaint is not maintainable, since the respondent has not committed any violation of the any of the terms of contract entered with the complainant and there is no contravention of the provisions of the Act and Rules. The prayer sought by the complainant are beyond the jurisdiction of the Authority and therefore the

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complaint is liable to be dismissed. The respondent has made the following further submissions:

(i) That the complainant has purchased two apartment units viz., one three bed room apartment bearing No.PB-WQ 1604 and one bed room apartment bearing No.PB-WQ 1605 on the 16<sup>th</sup> floor in the PB-WQ Block known as "PURVA WAVES", in the project "PURVA PALM BEACH" with one covered tandem car parking space.

(ii) That the complainants had entered into Agreements of Sale on 07-09-2020 and the Sale Deeds were also executed on 11-09-2020. As per Clauses of the Agreement, the owners have been allotted the right of exclusive use of garden/terrace/car parking shall alone be entitled to use the said car parking.

(iii) That the complainants are not entitled to demand for allocation of a particular car parking space and the car parking space allotted by the respondent should be made use of.

(iv) That on execution of the Sale Deeds in favour of the complainant, the apartment was handed over to the complainant, which has been acknowledged. The letter dated 12-10-2020 issued by handing over the possession of the apartment clearly states that the car parking will be done subsequently.

(v) That vide Email dated 14-10-2020, the complainants were informed of allocation of car parking in their favour, which was numbered as B-36, located in basement floor of Block No.1.

(vi) That the complainants raised a grievance about the car parking for the first time during March, 2021 vide Email dated 21-03-2021. The grievance of the complainant was that the car parking slots allotted to him was not convenient as the mother-in-law of Complaint No.1 was suffering from arthritis and therefore it was difficult to reach the car park in the absence of connecting lift facility from Block no.3 to the basement floor of Block No.1.

(vii) That the Emails were replied by the respondent to specifically state that the respondent was following certain procedure in allotment of car parks and that no owner has right to demand specific car parking slot. The apartment complex consisted of 1325 units and over 850 customers had booked the apartments prior to the booking of the complainants and it was not feasible in a high rise building to accommodate all the owners within the same block.

(viii) That the respondent has offered two fold solution:

(a) Surrender the allotted basement tandem car park by accepting one open and one covered car park in the ground floor without any additional cost.

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(b) The Complainant shall surrender the basement tandem car parking for two covered car parks in the ground floor for an additional cost of Rs.7,38,720/-.

5. The facts of the case, the written submissions of the parties have been examined and the rival contentions of the parties during the hearing proceedings have been taken into consideration. On a perusal of the Agreement for Sale, it is evident that the apartments booked by the complainant are entitled for a covered tandem parking for parking two cars. Admittedly, the respondent-promoter is not allotted the car parking, by transparently disclosing the car parking plan approved by the competent authority, at the time of Agreement of Sale. It is also admitted by the respondent-promoter in its written submissions that the car parking was also not made a part of the sale deed executed on 11-09-2020. Only thereafter, an intimation by email was sent to the complainant informing about the location of the car parking. It is not in dispute that the covered car parking allotted to the complainant is not in the same block where the apartment of the complainant is located on the 16<sup>th</sup> floor, but it is located altogether in a different block. The submission of the respondent-promoter that the apartment complex consisted of 1325 units and about 850 customers had booked the apartment prior to the booking of the complainant is taken note of. The said factual information submitted by the respondent-promoter

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indicates that it was feasible for the respondent-promoter to consider the request of the complainant much earlier and to resolve the issue amicably by providing an alternative location of car parking, but such steps were not taken by the respondent.

6. The entitlement of the complainant to get an allotment of a covered tandem parking in the block wherein his apartment is located cannot be brushed aside. Considering the price of the apartment, which is Rs.1.25 crs., the respondent-promoter was required to ensure that the car parking is so designed that the apartment owners of each block are able to reach the car park by using the elevator of the same block. The Plan Approving Authority such as BBMP have been permitting the provision of car parking upto three levels of basement as well with the connecting elevator of the same building. In view of this position, the contention of the respondent-promoter that Allottees cannot be provided car parking in the same block is not justified. In case the respondent-promoter was intending to provide car parking in a different location and altogether in a different block, which is not connected with the building on which the apartment of the complainant is located, it was necessary for a transparent disclosure of the same and making it as a part of the Agreement for Sale/Sale Deed. There is no such disclosure by the respondent-promoter and on

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the contrary the Agreement for Sale clearly states a covered tandem parking without any other details. It is reasonable to consider that the complainant was under a bonafide impression that the tandem car parking would be provided within the same building and not in some other block.

7. The very fact that the respondent-promoter has offered to provide covered tandem car parking in the ground floor of the same building on payment of additional payment of Rs 7,38,720/- indicates that it is not the inability of the respondent-promoter to accommodate the complainant in an amicable manner, but the refusal to accede to the request is driven by a commercial consideration. It is also viewed that such proposals by the respondent-promoter and the method followed amounts to unfair trade practice as well as deficiency of service on the part of the Respondent-Promoter.

8. The other issue raised by the complainant pertaining to sale of open cover parking by the respondent is concerned, it is a settled law that only a covered car parking can be sold by the promoter. Any action of the promoter to entering into sale transactions of car parking in the open area, which is a common area, is a violation of the provisions of the Act. Further, the promoter has no right to commercially exploit common areas by converting them into car

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parking areas. Since there is specific complaint before the Authority, it would suffice to give this general direction which is in accordance with provisions of the Act.

9. On a consideration of all the aspects pertaining to the issue of allotment of covered tandem car parking to the complainant, the Authority directs the respondent-promoter to comply with the following order:

**ORDER**

Respondent-promoter is hereby directed, u/s 37 of the Act, to provide a covered tandem car parking for two cars in the ground floor of the same block without any additional payment by the complainant.

  
**(Neelmani N Raju)**  
Member-2

  
**(D. Vishnuvardhana Reddy)**  
Member-1

  
**(H.C. Kishore Chandra)**  
Chairman

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