

BEFORE ADJUDICATING OFFICER, RERA  
BENGALURU, KARNATAKA

Complaint No. CMP/190116/0001882

Date: 21<sup>st</sup> March 2019

Complainant : Soumitra Kumar Saha  
B214, Euphoria Apartment, iblur,  
Off Outer Ring Road and Sarjapur  
road crossing, Bengaluru- 560102

AND

Opponent : Shriram Chirpping Woods,  
Shrivision Homes Private Limited  
#40/43, 8<sup>th</sup> main 4<sup>th</sup> cross, RMV  
Extension, Sadashivnagar,  
Bengaluru- 560080

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

1. Soumitra Kumar Saha, complainant under complaint no. CMP/190116/0001882 has filed this complaint under Section 31 of RERA Act against the project "Shriram Chirpping Woods" developed by Shrivision Homes Pvt. Ltd., as the complainant is the consumer in the said project. The complaint is as follows:

*"Builder promised to handover the apartment by December,2017 with a maximum possible extension of 6 months. Till date there is no construction progress of the building. Rs17,42,400/- was paid to the builder between June,2014 and 24th December,2014. Now, builder wants to refund the money with paying any interest. This amounts to a monetary loss for me as over last 4-4.5 years the amount has depreciated against inflation and opportunity cost.*

*Relief Sought from RERA: Apartment as promised or refund with interest"*

2. In pursuance of the notice issued by this authority, on 14/02/2019 the complainant was present. One Naveen Kumar on behalf of developer was present and submitted his objection. On 22/02/2019 I have heard the arguments.

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3. The developer has admitted that the agreement was entered into on 19/02/2014. It was agreed to deliver the possession on or before June 2018. The developer has also admitted that the complainant has paid Rs. 17,42,400/-. At the time of arguments it is submitted that because of NGT order the delay was occurred. The developer also submitted that he has already completed 90% of the work since he has given date of completion under RERA as 31/03/2019. I would say that the reason given by the developer cannot be a ground for denial of compensation, Since, Sec. 19(4) protect the interest of the complainant. However the developer has narrated in para No. 4 of his objection statement which reads as under:

*It is submitted that the construction of Basement & Stilt was partially completed in Tower No. 5 and due to the NGT order which was given after the plan sanction was obtained, regarding the Nala/Buffer the company has not been able to proceed further construction through Tower No. 5 is part of sanction plan and getting statutory approval is not possible for this tower, hence this company has dropped the plan of further construction of Tower No. 5. It is submitted that the company send an email on 02.12.2018 to all the consumers who have booked the apartments in Tower No. 5 that the company is cancelling all the booking at the Tower No. 5 ready to refund the amount, in view of the NGT [Post plan Sanction] order. Subsequent to mail dated 02.12.2018 the company also sent a list of apartments available in Tower No. 1 to 4 vide their mail dated 07/12/2018 to all the consumers of Tower No. 5 to choose the alternative apartments. The copy of the email dated 02.12.2018 and 07.12.2018 are hereby attached as 'Annexure D & E' for the kind perusal of this authority. It's to bring the kind knowledge of this Authority that the complainant who has not opted to choose the apartment as per his choice in Tower No.1 to 4 has approached this authority for refund of his amount. It is further submitted that the construction work in Tower No. 1 to 4 are 95% completed.*

*[Handwritten signature]*  
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Hence, by keeping it in my mind I would say that the complainant is entitled for refund of the amount as per RERA.

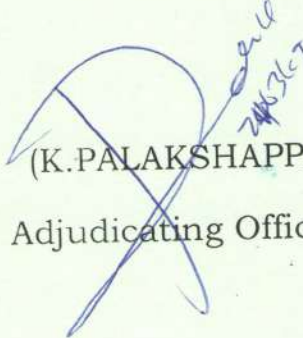
4. Before passing the final order I would like to say that as per section 71(2) of RERA the complaint shall be disposed off by the Authority within 60 days from the date of receipt of the complaint. This complaint was filed on 16/01/2019. As per SOP, 60 days shall be computed from the date of appearance of the parties. In this case the Complainant was present on 14/02/2019. It means the case is being disposed off within 60 days. With this observation I proceed to pass the order.

**ORDER**

The Complaint No. CMP/190116/0001882 is allowed

- a. The developer is hereby directed to return full amount of Rs. 17,42,400/- along with interest @10.75% p.a.
- b. The developer shall deduct the GST amount out of the amount payable to complainant and hand over the necessary documents to the complainant to enable the complainant to claim the amount from the department.
- c. The complainant is hereby directed to execute the cancellation deed in favour of the Developer after the entire amount has been realized.
- d. Further the developer is directed to pay Rs. 5000/- as cost of the petition.
- Intimate the parties regarding this order.

(Typed as per dictation Corrected, Verified and pronounced on 21/03/2019)

  
(K.PALAKSHAPPA)  
Adjudicating Officer