

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

Dated 14th of November 2019

COMPLAINT No. CMP/180620/0000936

RAGHUNATH M S

....Complainant

102, Tulips, Esteem Gardenia,
E Block, Sahakar Nagar,
Bengaluru Urban - 560092.

VERSUS

ESTEEM GROUP,

....Respondent

3rd Floor, SNS Chamber,
No. 239, Sankey Road,
Bengaluru Urban - 560082.

This complaint pertains to Project Esteem Gardenia, E Block,
Sahakar Nagar, Bengaluru.

The complaint in brief is, that the project comprises of 128 apartments which are completed, sold and an association of allottees called as "Esteem Gardenia Apartment Owners Association" was formed in 2007. The complainant states that he purchased a 2 BHK apartment in 2011 from the original allottee. That the complainant alleges that since the date of formation of the association he has been requesting the respondent to handover all the title documents, sanctioned plans, permissions, license relating to this project. The respondent has not

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handed over the project to the association. The respondent has not fully covered the 1st floor roof of the club house.

Notices were issued to both the sides and proceedings conducted.

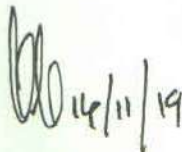
The respondent has stated that the project was completed way back in 2005 even before the RERA came into force. That he obtained the project completion certificate on 12/06/2005 and occupancy certificate on 27/06/2005, hence exemptions must be given from the operations of the provisions of the Act.

The respondent has further contended that, the complainant as not purchased the apartment directly from the respondent and hence he does not have the locus standi to file the complaint. Further the respondent submits that the physical possession of the entire project has been handed over to the association of purchaser. Hence he has requested the authority to reject the complaint.

Perused the complaint and the statement of objections filed by the respondent / promoter.

The preamble of the Real Estate (Regulation and Development) Act, 2016 specifically says that the enactment is "to protect the interest of consumers in the real estate sectors and to establish an adjudicating mechanism for speedy dispute redressal". The functions and duties of the promoter are described under Section 11 of the Act.

Hence even if the project is completed and occupancy certificate is received before the commencement of the Act, though the project is exempted from registration, nonetheless the promoter is bound by the responsibilities assigned to him under the Act.

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In case the promoter fails to perform his part of the duties, "any aggrieved person" may file a complaint with the Authority under Section 31(1) of the Act.

Therefore the contention of the respondent that the complainant being a purchaser from an allottee has no locus standi to file a complaint is hereby rejected.

Section 11(4)(e) stipulates that the promoter shall enable the formation of an association / society / co-operative society / federation of the allottees.

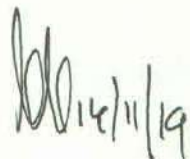
Section 11(4)(f) stipulates that the promoter shall "execute a registered conveyance deed of the apartment, plot or building, as the case may be in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under Section 17 of this Act".

In view of the above, following order is passed.

ORDER

The complaint bearing No. **CMP/180620/0000936** is hereby allowed under Sec. 31 of the Real Estate (Regulation and Development) Act, 2016.

The respondent is hereby directed under Section 11(4) read with Section 17 of the Real Estate (Regulation and Development) Act, 2016, to

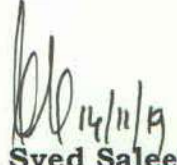
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- (1) Execute a registered conveyance deed in favour of the association of the allottees with respect to the undivided proportionate title in the common areas including the civic amenities.
- (2) Handover the necessary documents like the title documents, sanctioned plans, permissions, licenses etc., relating to the project to the association of allottees.



(Adoni Syed Saleem)

Member-2

KRERA