

**BEFORE ADJUDICATING OFFICER, RERA**  
**BENGALURU, KARNATAKA**

**Complaint No. CMP/190319/0002454**

**Presided by Sri K Palakshappa**  
**Adjudicating Officer**

**Date: 30<sup>th</sup> October 2019**

Complainant : Kiran A.V.  
Flat No. 212, 2<sup>nd</sup> Floor,  
Building No.6, Kamat Harmony,  
Saint Inez Taleigao By Pass Road,  
Panaji, Gao - 403001  
Rep. by Sri Kadappa, Advocate

AND

Opponent : M/S Antevorta Developers Pvt.Ltd.,  
100 feet road, HAL 2<sup>nd</sup> Stage,  
Indiranagar,  
Bengaluru-560038

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

1. Kiran A.V., being the Complainant filed this complaint bearing No. CMP/190319/0002454 under Section 31 of RERA Act against the project "Glengate" developed by M/S Antevorta Developers Pvt.Ltd, as he is the consumer in the said project. The complaint is as follows:

*Asking to register and take possession of incomplete flat by demanding money for incomplete project with respect to Gated Compound wall with security and Amenities. Delivery Date exceeded. GST Benefit.*

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*30/10/19*

*Relief Sought from RERA : Compensation and clarity from Promoter on queries*

2. In pursuance of the notice issued by this authority, Shri. Kadappa Advocate filed Vakalath on behalf of the complainant and the respondent also present through his representative Sri Chethan. The developer has filed his objections.
3. I have heard the arguments.
4. The point that arise for my consideration is  
Whether the complaint filed by the complainant is deserves to be allowed or not?  
My answer to the above point is affirmative in part for the following

**REASONS**

5. The complainant has booked a Flat bearing No. C-604 in Glengate Project in Block C on the 6<sup>th</sup> floor of the project called Glen Gate. Agreement of sale and Construction agreement has been executed on 26/09/2014. According to the developer the date of the completion was agreed in the agreement is 46 months plus 06 months grace period from the date of agreement of sale. It means it comes 26/01/2019. The representative of the developer submits that though the developer has agreed to complete the project as per the date mentioned in the agreement as January 2019, however it is submitted that the developer has made all his efforts to complete the project even earlier to this date. In this connection the developer has drawn my attention that he has obtained O.C. on 15/11/2018 which is much ahead of completion date as mentioned in the agreement. When that being the case now the responsibility of the parties to adhere to section 19(10) of the Act. It further means the developer has to call the complainant to take possession of the flat. In this regard it is submitted on behalf of the developer that the company has sent final demand notice on 21/12/2018, it means it is in compliance of the section 19(10). I would say that when the

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developer has received the OC and issued final demand notice then it is the duty of the consumer to take possession. Surprisingly the complainant has filed this complaint in the month of March 2019 claiming delay compensation on the allegation that the project was not completed. Compound wall not constructed. I would say that if really this was the claim of the complainant he would have filed the reply when the developer has issued final demand notice dated 21/12/2018. As per section 19(10) & Section 19(6) it is the responsibility of the consumer to make payment if due and to take physical possession. But here instead of doing so the complainant has filed this complaint after expiry of more than 85 days by making some allegations.

6. Of course it is the responsibility of the developer to complete the project in all sense. It is not the case of the complainant that he has not taken the sale deed and not tendered the amount since the developer has not put up the compound wall and not provided other amenities. At this stage I would say that the allegations regarding the non-providing the amenities cannot be determined since the developer already received the Occupancy Certificate. Moreover in this case there is a litigation and therefore the developer be directed to give the minimum basic amenities to the complainant. Therefore I say that the parties may be directed to comply with Section 19(10) of the Act with a liberty to seek any other relief after the compliance. Of course the complainant has sought for delay compensation from the developer by filing this complaint in the month of March 2019 but his prayer itself is premature one since even much earlier to filing of this complaint his project was ready for occupation as the developer had already received the O.C. Further the developer had invited the complainant to take possession after tendering the balance amount in compliance of Section 19(10) of the Act. When such being the case the question of grant of compensation does not arise because the date of completion as per Agreement was 26/01/2019. Hence, I direct the

  
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parties to adhere to Section 19(10) of the Act and thereby this Complaint is allowed in part.

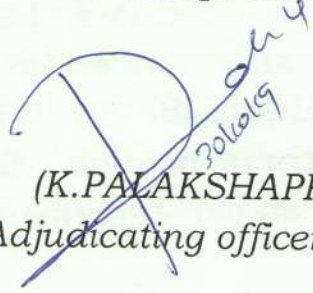
7. As per S.71 (2) RERA, the complaint will have to be closed within 60 days from the date of filing. In this case the complaint was filed on 19/03/2019. In the present case, the parties have appeared on 03/05/2019. In view of the same the complaint is being disposed of with some delay. Hence, I proceed to pass the following

**ORDER**

- a. The complaint No. CMP/190319/0002454 is allowed.
- b. The parties are hereby directed to comply section 19(10) of the Act.
- c. The complainant is hereby directed to tender the amount payable to the developer within a month from today.
- d. The developer is directed to deliver the physical possession by receiving the amount from the complainant including the amenities within a month from today.
- e. The developer is also directed to pay Rs. 5,000/- as cost.

Intimate the parties regarding this order.

(This Order is Typed, Verified, Corrected and pronounced on 30/10/2019)

  
(K.PALAKSHAPPA)  
Adjudicating officer