

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

Complaint No. CMP/190309/0002402

Presided by Sri K Palakshappa

Adjudicating Officer

Date: 4th January 2020

Complainant : PRADEEP KUMAR KOTHA
#47A, 4th A Cross
Rajasree Layout, Munnekolala
Marathalli, Bangalore-560037

AND

Opponent : Purva Star Properties
Pvt. Ltd., 130/1, Ulsoor Road
Bangalore-560042

"J U D G E M E N T"

1. PRADEEP KUMAR KOTHA, Complainant has filed complaint bearing complaint no.CMP/190309/0002402 under Section 31 of RERA Act against the project 'Purva Westend' developed by "Purva Star Properties Pvt. Ltd.," as the complainant is the consumer in the said project. The complaint is as follows:

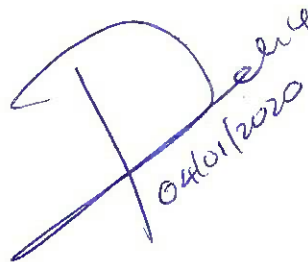
I booked a flat from Puravankara in Dec'13. My flat number is C805 in Block C. I signed a sale and construction agreement with Puravankara in March'14. As per the agreement signed between myself and Puravankara, the completion date for the project is 3 years from the date of receiving commencement certificate plus a grace period of 6 month. The commencement certificate was received on 23-04-2015. As per the agreement the apartment should have been delivered by 23-October-2018. Wherein, Purva has repeatedly replying to buyers that the

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handover date is Dec'18. And Dec'18 is the RERA registered handover date. How come this is allowed in the ambit of RERA Puravankara has clearly misguided RERA and cheated its customers by registering Dec'18 as the handover date. Puravankara is clearly violating the true spirit of KRERA, which is to safeguard the buyer interest. With regards to handover they have violated the customer agreement and given a date that is not agreed between us. I request the authorities at KRERA to summon the builder and provide me relief as per RERA on the violations of agreement mentioned above as the apartment is not delivered till date. Not sure when it will happen also. Also, Puravankara marketing team is forcing all the buyers to take their Purva Streaks service for home interiors saying that if customers go with Purva Streaks for interiors, they will start the work immediately and by the time of handover, flat will be ready with interiors. If we go for 3rd party interiors, we have to do it only after handover. I request authorities to take action against Puravankara for this kind of tactics.

Relief Sought from RERA: Compensation as per RERA Act

2. In pursuance of the notice issued by this authority, the complainant has not at all appeared. The developer filed objections to the allegations made by the complainant. Hence, I have heard arguments of the complainant and the matter was posted for judgment on merits.
3. The points that arise for consideration is as to:
 - A. Whether the complainant is entitled for the relief as prayed?
4. My answer is negative for the following


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REASONS

5. This complaint is filed by the complainant for delay compensation. The developer has filed Memo and brought to my notice that he has executed the sale deed in favour of the complainant on 30.04.2019 under which the complainant has taken the possession. The copy of the sale deed has also produced by the developer. Of course, the complainant has booked the flat bearing No.C-805 and executed construction agreement on 19.03.2014. The developer has received occupancy certificate on 29.12.2018. Surprisingly, the complainant had taken the sale deed from the hands of the developer on 30.04.2019, which is during the pendency of the complaint. The complainant who has failed to appear was having a duty to inform to this authority regarding the sale deed and taking possession. In this regard I would like to take the page No. 10 of the sale deed there is a recital regarding possession. It is mentioned as under:

The developer have delivered full free and vacant possession of the schedule B property and in this regard the purchaser agree...

6. This recital of the sale deed is an important situation to consider the prayer of the complainant. When once the possession is taken this authority will lose its jurisdiction. In this regard I would like to rely up on a decision given by MAHA RERA which reads as under:

**BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY,
MUMBAI**

Complaint No: CC00600000055789

Pratibha Fabrics Ltd., Complainant

Verses

Lodha Developers privet LimitedRespondent

ORDER

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04/06/2020

(6th August, 2019)

The MahaRERA has examined the arguments advanced by both the parties as well as the records. In the present case, the complainant is seeking interest for the delayed possession under Section - 18 of the RERA Act. However the provision of Section - 18 of the RERA Act would apply if the allottee has not taken possession of the flat. In the present case, since the complainant already taken the possession of the flat in the month of March 2018, and filed the complaint afterword. If cannot seek any relief by accepting compensation amount offered by the respondent. Hence the complainant cannot seek any relief under the provision of the Section - 18 of the Act too.

7. From the above decision and also the act of the complainant this complaint is liable for dismissal. In addition to it the complainant remained absent on all the dates of hearing which on 30.07.2019, 20.08.2019, 06.09.2019, 20.09.2019, 25.10.2019 and 20.11.2019. It means the developer when filed memo for dismissal of the complaint on the ground that the sale deed has been executed by delivering the possession, which is not denied by the other side and no case has been made out by the complainant. It means the complainant is not interested in prosecuting the case. Hence, in view of the discussion made as above, the complaint is liable for dismissal.
8. 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 09/03/2019. In this case the complainant had not at all appeared but the developer has appeared on 26/07/2019. 60 days to be computed from the date of appearance of the parties. Here the complainant not at all appeared. Hence question of delay does not arise. Hence, I proceed to pass the following.

Done
10/08/2019

ORDER

The Complaint filed by the complainant bearing No.CMP/190309/0002402 is hereby dismissed.

Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 04.01.2020).

K. PALAKSHAPPA
Adjudicating Officer

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