

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
Karnataka Real Estate Regulatory Authority, Bengaluru  
ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

**BEFORE ADJUDICATING OFFICER, RERA**  
**BENGALURU KARNATAKA**  
**Presided by Shri H. Palakshappa**  
**Adjudicating Officer**  
**Dated: 16<sup>th</sup> January 2020**

<b>Complaint No.</b>	<b>CMP/190511/0002977</b>
Complainant	Prakash S D No.198, Brahma Vijaya, 29 <sup>th</sup> Cross, Rajajinagar 2 <sup>nd</sup> Stage Bengaluru-560010
Opponent	Puravankar Ltd 130/01, Ulsoor Road Bengaluru- 560042

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

1. Prakash S.D., being the Complainant filed his complaint bearing no. CMP/190511/0002977 under Section 31 of RERA Act against the project "Purva Sunflower" developed by Puravankara Pvt. Ltd., as he is the consumer in the said project. The complaint is as follows:

WE HAVE ENTERED IN TO AGREEMENT FOR SALE FOR FLAT NO.SFD-605 AT PURVA SUNFLOWER, MAGADI ROAD ON 30-01-2018. AS PER CLAUSE 2.1 OF SALE AGREEMENT THE DUE DATE FOR EXECUTION OF SALE DEED IS 30-06-2018. TILL DATE THE PROMOTER NOT DELIVERED/REGISTERED THE FLAT IN OUR FAVOUR.

Relief Sought from RERA :REGISTRATION AND POSSESSION OF FLAT &COMPENSATION

*Prakash S D*

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

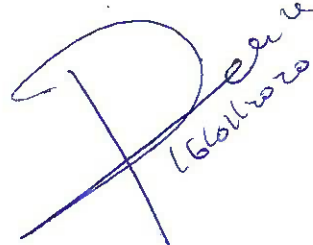
**Karnataka Real Estate Regulatory Authority, Bengaluru**

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560017.

2. In pursuance of the notice issued by this authority, complainant is present in person. Kumari Sonali was present on behalf of the developer. Later the developer has filed Objection for which the complainant filed his reply.
3. Heard the arguments.
4. The point that arisen for my consideration was:
  - a. Is the complainant entitled for the relief?
  - b. My answer is affirmative for the following

**REASONS**

5. The complainant sought for compensation which was not paid by the developer. At the time of the argument it was submitted that he has entered into agreement with the developer on 30/01/2018. The sale deed was executed on 25/06/2019. Kumari Sonali representing the developer submits that the sale deed is executed means half of the case of the complainant is proved. The developer has produced the copy of the Sale Deed. According to the developer as when the project is completed then possession is delivered means the question of payment of the compensation does not arise. It is also submitted that the claim made by the complainant that the grant of compensation between April 2018 and June 2019 is unfounded and baseless. In support of the same the developer has submitted that in spite of the invitation given to the complainant for taking the possession he failed to take the sale deed and therefore it is said that the complainant is not entitled for the same.
6. It is the case of the complainant that as per Clause 2.1 of Agreement for Sale the developer was expected to deliver the possession on or before 30/06/2018 but on 5/12/2018 he sent a mail stating that undertaking had to be given. It is also said that

  
16/6/2020

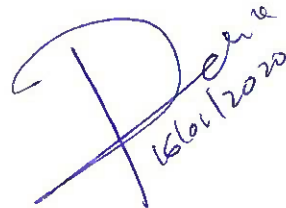
ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
Karnataka Real Estate Regulatory Authority, Bengaluru

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

even at the time of December 2018 the apartment was not in a habitual condition and therefore just because the developer has taken the OC doesn't mean that the flat was ready for occupation.

7. The developer has produced an E-mail letter dated 17/09/2018 where in the developer has invited the complainant to inspect the site on 03/10/2018. Of course for this letter according to the developer the complainant has not visited the spot. However on 05/12/2018 the developer has addressed the letter stating as under:

- a. 100% payments towards the apartment as well as the other charges need to be paid to Puravankara and the same needs to be credited in our account prior to the day of possession handover.
- b. if the property is hypothecated to bank, the concerned bank will have to give letter/NOC addressing Puravankara that they have no objection in you taking possession before registration. Kindly coordinate with your bank to get the NOC.
- c. Advance Maintenance charges with applicable taxes to be paid before possession by the apartment owner
- d. Legal/Advocate/Professional Charges are to be paid at the time of registration as per the then prevailing rate.
- e. Registration DD's has to be handed over to Puravankara before possession formalities.

  
16/12/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
Karnataka Real Estate Regulatory Authority, Bengaluru

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560017.

*Demand letter with the details of the outstanding due amounts will be shared with you within 7days from the receipt of the bank NOC.*

8. This letter dated 05/12/2018 proves that the flat was not delivered to the complainant. Further it is the case of the developer that even after obtaining the Occupancy Certificate it is not possible to execute the sale deed because the developer has to follow some other procedures. The land owner has executed the deed of the declaration on 11/10/2018 which is in accordance with the provisions of Karnataka Apartment Ownership Act 1972. Further, it is said that :

- i) *The company sent its first inspection intimation to the complainant, inviting him to inspect his Unit on 15.09.2018 in order to identify snags and rectification and repairs which may be required. A copy of the intimation is attached to this statement of objections as Annexure-3. The complainant then subsequently signed off on the readiness of his unit.*
- ii) *The company further submits that the process of handover of possession of the complainant's unit had effectually commenced on the day intimation of first inspection was sent i.e. 15.09.2018. Time consumed by the process of joint inspection, repairs, rectification of snags and consequent execution and registration of the sale deeds cannot and must not be construed or interpreted as delay in delivery or possession. Such a narrow interpretation would defeat the overall intent of*

*[Handwritten Signature]*  
16/06/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
Karnataka Real Estate Regulatory Authority, Bengaluru

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

the Act. The company therefore submits that it has not in any way delayed completion of the project; nor has deliberately delayed handover or possession of the units.

- iii) The project is a large multi-storey residential development consisting of 326 residential apartment units. For a project of this scale, possession and handover of apartments, including but not limited to the execution and registration of sale deeds needs to be conducted in a planned and organized manner. It is neither feasible nor reasonable to expect handover of all the units on the same day or within a few days of each other.
- iv) In accordance with the established procedures of the company, registration of units is undertaken based on the date on which the units are booked. Units booked prior to the complainant's unit were given primacy and registered accordingly. The company therefore submits that the time consumed by the process of execution and registration of the sale deeds cannot and must not be construed or interpreted as delay in delivery or possession. Such a narrow interpretation would defeat the overall intent of the Act.
- v) The company submits that complainant executed and registered deed of sale on 25.06.2019, copy of which has been attached to this reply. The complainant's conduct and actions are clear demonstration of the fact that both parties have

*Devi*  
16/06/2020



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

**Karnataka Real Estate Regulatory Authority, Bengaluru**

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

*performed their obligations under the agreements, and there exists no contravention under the Real Estate ( regulation & Development) Act,2016 and rules there under. The complaint is liable to dismissed on this ground alone.*

9. It is submission of the developer that the compensation cannot be awarded just because the conveyance deed has not been executed immediately after the receipt of OC, because of the above said reasons he has to undergo the above said formalities.
8. At the time of argument it was submitted that the completion date was 30/06/2018 but the sale deed was executed on 25/06/2019. The developer has received the OC on 26/02/2018. As per law the moment when he receives the OC then the period of delay has to be stopped unless the developer proves that he has completed the project in all sense. But the mail exchange proves that the project was not completed as on the date of OC. The complainant has given his explanation in this regard as under:

*The developer has first communicated for inspection of the flat on 15/09/2018 via mail to be presented at site on 30.10.2018. the same day i.e. on 15/09/2018, we have confirmed our presence on the appointed date. However, the developer has communicated back that they will inform the inspection of our flat shortly. Over the phone we have requested the inspection of flat and we have carried out the inspection of flat during November 2018. On 3.11.2018, the developer has sent mail stating that the registration of the flat is commenced and to select two dates as 22.11.2018 and 28.11.2018.*

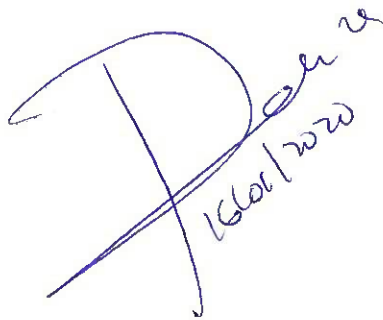
*[Handwritten signature]*  
16/01/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
Karnataka Real Estate Regulatory Authority, Bengaluru

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-56007.

on 4.11.2018 we have sent a mail to the developer to register the flat on 22.11.2018. however, the developer has not registered the flat stating that they will register the flat based on the date of booking. On 4.12.2018, we have sent a mail to the developer.

9. The mails produced by the developer also prove the same. Of course it was submitted that the land lord had had to execute the deed of declaration before execution of sale deed. According to developer his landlord had executed the deed of declaration only on 11/10/2018. Even then the unit of the complainant was not ready since the mail sent by the developer proves the same. Hence, the sale deed was executed in the month of June 2019 since the unit was not fully ready for habitant. Under those circumstances it is not correct to say that the developer has been absolved immediately after the OC was obtained. I would say that the sale deed was executed only after the unit was ready for occupation and hence the developer is liable to pay the delay compensation.

  
16/06/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

**Karnataka Real Estate Regulatory Authority, Bengaluru**

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

10. As per S.71 (2) RERA, the complaint has to be closed within 60 days from the date of filing. In this case the complaint was filed on 11/05/2019. 60 days be computed from the date of appearance of the parties. In the present case, the parties were present on 14/08/2019. Hence, the complaint is being disposed of NO delay. With this observation I proceed to pass following order

**ORDER**

a. The complaint no. CMP/190511/0002977 is allowed by directing the developer to pay the delay compensation @ 2% above the MCLR of SBI on the principal amount paid under sale deed commencing from July 2018 till the date of execution of sale deed.

b. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 16/01/2020).

K.Palakshappa  
(Adjudicating officer)