

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
FIRST ADDITIONAL BENCH OF
KARNATAKA REAL ESTATE REGULATORY AUTHORITY

Dated 10th of June 2020

Members Present:

1. Shri M R Kambe, Chairman, K-RERA
2. Adoni Syed Saleem, Member-2, K-RERA.

Ref:	CMP/190718/0003632
Complainant	Shri. Rajesh Kumar H.No.D.1806, Alembic Urban Forest, Bengaluru – 560 066.
Promoter / Project Name:	Shri. Madhav Badamreddy Project - 'SEQUOIA', By M/s. Marvel Infra Build Pvt. Ltd, Sr.No.213/3, Veeraswamy Reddy Layout, Near Whitefield Global School, Channasandra Main Road, Kadugodi, Bengaluru – 560 067.

The complainant by name **Shri. Rajesh Kumar**, Bengaluru has filed a complaint before this Authority seeking compensation amount and immediate registration of the flat in the project "**SEQUOIA**", situated at property Khata No. 673, Sy. No. 139, Muncipal No. 189, Channasandra Village, Bidarahalli Hobli, Bengaluru East Taluk, Ward No. 83, Mahadevapura Zone, Bengaluru vide Project Registration No. PRM/KA/RERA/1251/446/PR/180222/002509 developed by Shri Madhav Badam Reddy, M/s. Marvel Infra Build Pvt. Ltd. Sr No. 213/3, Veeraswamy Reddy Layout, Near Whitefield Global School, Channasandra Main Raod, Kadugodi, Bengaluru, to which complaint acknowledge number has been allotted as CMP/190718/0003632. This application was filed on 18/07/2019.

Facts of the Complaint:

The above said complainant has alleged as under:

*"Flat buying agreement was done on 18th Mar 2018.
Possession date committed in agreement 30-June 2018 with a
grace period of 6 months. Possession is not given till today*

Handwritten signature

Handwritten signature

...Cont'd (2)

and complete denial of compensation from builder. On the contrary asking me to pay interest at 24% for delay payment from my side caused due to delay document submission from builder to bank”.

As per Section 31 (1) of the Act, any aggrieved person may file a complaint with the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provisions of this Act or the Rules and Regulations made there under against any promoter, or real estate agent, as the case may be.

In the present case, the complainant filed his complaint online vide complaint No. CMP/190718/0003632 on 18/07/2019, seeking relief of compensation amount and immediate registration of the flat in the project “SEQUOIA”. The Adjudicating Officer of K-RERA heard the case on 19-09-2019, 15-10-2019, 06-11-2019 and on 22-11-2019. During hearings and on perusal of the documents, the Adjudicating Officer has noted that the developer has executed the Agreement of Sale on 18-03-2018 which is after coming into force of RERA Act. The Adjudicating Officer further noted that the total cost of the property is Rs.39,86,926/- for which the complainant has paid Rs.7,97,386 which is more than 10% of the cost of the flat. The Adjudicating Officer on enquiry into this case has stated that the agreement of sale so entered by the complainant and the developer is not registered. As per Section 13 of the Act, the developer shall not receive more than 10% unless he has executed registered Agreement of Sale. Therefore, it is a clear violation of Section 13 of the Act, which is beyond the scope of the Adjudicating Officer to adjudicate the matter. Hence, the case was moved for hearing before the Authority.

The complainant called upon the Chairman, K-RERA on 10-12-2019 and requested for the possession of the property and accordingly, the case was posted before the Authority for hearing on 24-12-2019. Accordingly, the Authority heard the matter on 10-01-2020, 14-01-2020 and on 30-01-2020. The matter was posted for Orders after the hearing on 30-01-2020. The complainant submitted a letter dated 17-03-2020 addressed to the Chairman requesting to expedite judgment delivery, execution of interim orders and possession of the flat. And on the insistence by the complainant to expedite the judgment, the Authority posted the matter for hearing on 11-05-2020 before the First Additional Bench of K-RERA in the interest of Justice and Equity.

...Cont'd (3)





-3-

Due to COVID-19 situation, the First Additional Bench of K-RERA heard the matter on 11-05-2020 through 'Skype'. The complainant attended the hearing on 11-05-2020 through 'Skype', wherein the respondent remained absent.

The project "**SEQUOIA**", situated at property Khata No. 673, Sy. No. 139, Municipal No. 189, Channarayana Village, Bidarahalli Hobli, Bengaluru East Taluk, Ward No. 83, Mahadevapura Zone, Bengaluru is a registered project with K-RERA vide Registration Certificate No. PRM/KA/RERA/1251/46/PR/180222/002509 dated 22/02/2018 issued by IRERA valid from 07/12/2017 and end date is 01/12/2019.

In the present case, the following facts are perused:

1. The Complainant in his online registered complaint, sought relief of compensation amount with immediate registration of the flat.
2. Before the case was to be heard by the Authority that is on 24-12-2019, the complainant requests the Authority on 10-12-2019 for the possession of the property.
3. During the hearing on 24-12-2019, the Authority gave the following directions to both the parties:
 - a. The complainant to furnish the working of the compensation due to him for the delay.
 - b. Respondents to provide detailed working of the provisions of amenities such as BESCOM, Water, STP and any other amenities as per the agreement (supported by documents).
 - c. Date of application for occupancy certificate and date of payment of fees for the same.
 - d. Statements as certified by Engineer, Architect and CA showing the stages of progress of the project and the liability on the allottee with regard to the construction progress linked payments, delays from such due dates in payments by the allottee.
 - e. Respondent to furnish a final working of the compensation payable to the allottee and the interest payable by the Allottee and certified by the project CA.
 - f. Respondents are further directed to fix an early date for registration and handing over the possession, preferably within one week, from the next date of hearing which is final hearing. And

...Cont'd (4)





adjourned the case to 10-01-2020.

4. On 10-01-2020, the complainant and advocates for the respondent were present before the authority hearing and the advocate for the respondent agreed to register the property. The Authority directed the promoter to register the property on 17-01-2020 and posted the next hearing to 14-01-2020.
5. The respondent and his lawyers were absent for the hearing on 14-01-2020. The Authority directed to issue summons to the respondent and posted the matter to 30-01-2020.
6. On 30-01-2020, the Authority directed the respondent to comply with the directions issued on 24-12-2019, to register the property to the complainant without further delay and reserved for orders.
7. The complainant submitted letter dated 11-02-2020 and another letter dated 17-03-2020 expressing the malafide intensions of the promoter and requesting to expedite the judgment.
8. The matter was posted before the First Additional Bench of the Authority and hearing was held through 'skype' on 11-05-2020 wherein the complainant attended the hearing. Respondent remained absent even after serving the hearing notice through 'Skype'.
9. During the hearing of the First Additional Bench of K-RERA through 'Skype' on 11-05-2020, the complainant expressed to exit from the project and wanted his money back along with the interest. Accordingly, the Authority directed the complainant to file a memo regarding his willingness to exit from the project and reserved for orders.
10. In view of the COVID-19 situation, the complainant has submitted to the Authority vide email dated 12-05-2020 expressing his willingness to change his relief from delay compensation and possession of flat to return his money with interest by cancelling the flat from the project.

After hearing the arguments from both the parties before the Full Bench Authority and before the First Additional Bench of the Authority and also taking into account on record the documents submitted by the promoter so also the submission of the complainant's change in seeking relief, the Authority proceed to pass the following





...Cont'd (5)

-5-

ORDER

1. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint filed by **Shri. Rajesh Kumar** bearing No. CMP/190718/0003632 against the developer **Shri. Madhav Badamreddy**, M/s. Marvel Infra Build Pvt. Ltd., Bengaluru of the Project "SEQUOIA", situated at property Khata No. 673, Sy. No. 139, Municipal No. 189, Channasandra Village, Bidarahalli Hobli, Bengaluru East Taluk, Ward No. 83, Mahadevapura Zone, Bengaluru is hereby allowed
2. The Respondent is hereby directed to return the money collected from the Complainant towards the allotment of flat in the said project along with:
 - (i). The rate of interest shall be the State Bank of India highest marginal cost of lending rate plus 2% (two percent).
 - (ii) The promoter is liable to refund the complete amount paid by the complainant with the interest as prescribed above from the date of deposits received till the date of refund, within 60 days.
3. The Complainant is allowed to exit from the project "SEQUOIA" without any cancellation fee to the complainant / allottee.


(Adoni Syed Saleem)
Member-2
KRERA


(M.R. Kamble) 10/6/2021
Chairman
KRERA

NOT AN OFFICIAL COPY