

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

**BEFORE ADJUDICATING OFFICER, RERA**  
**BENGALURU, KARNATAKA**  
**Presided by Sri K.PALAKSHAPPA**  
**Adjudicating Officer**  
**Date 6<sup>th</sup> AUGUST 2020**

<b>Complaint No.</b>	<b>CMP/191223/0005028</b>
<b>Complainant</b>	B. Chittaranjan Shetty D. No. 16-62-8/1, Udayanagar-575025 Dakshina Kannada In Person
<b>Opponent</b>	Sri Kateleshwari Innovative Projects F.27, First Floor Empire Mall, Ballalbagh Mangaluru- 575003 Dakshina Kannada

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

Sri Chittaranjan Shetty, the complainant has filed this complaint No.CMP/191223/0005028 under Section 31 of RERA Act against the project "ATHIKARI ACROPOLIS" developed by 'SHREE KATELESHWARI INNOVATIVE PROEJCTS.,' seeking a direction to the developer to execute the sale deed. His complaint reads as under:

*Respondents are intentionally delaying position as per agreement dated 31/08/2016.*

*Relief sought for: to direct the respondents to execute and register a proper deed of conveyance in respect of premises immediately as per law.*

*Devi*  
06/08/2020

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2. In pursuance of the notice issued by this authority the complainant has appeared in person where as the developer too.
3. This case was to be called on 19/03/2020 but not called on that day since 16/03/2020 the calling of cases in open court was stopped as per the office order. Further in the meanwhile the Government has declared lock down from 24/03/2020 till 17/05/2020. Further in order to maintain the social distance the personal hearing was stopped and the parties have been called through Skype.
4. I have heard the arguments of the complainant and the developer through Skype and the matter was reserved for judgment.
5. The points that arise for my consideration are:
  - a. Whether the complainant is entitled for the relief as sought in his complaint?
  - b. If so, what is the order?
6. My answer is affirmative in part for the following

**REASONS**

7. This complaint has been filed by the complainant seeking a direction to the developer to execute the proper conveyance deed in his favour in respect of a commercial shop premises. The developer who has appeared through Skype has admitted to execute the sale deed. But in order to execute the sale deed he needs the co-operation of the complainant. At this stage I would like to say that in order to disposal of this complaint some facts are needs to be narrated. The developer has admitted in his objection statement itself that the project is delayed but on account of non-co-operation shown by the complainant itself. In order to know the same it is better to go to the objection statement in further. On 27/08/2018 a legal notice was got issued on behalf of the developer from which I

*[Handwritten Signature]*  
06/09/2020

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have taken some points to determine this present issue. According to this notice it is clear that including the complainant other 8 persons are the owners of shop premises situated in Athikari Complex situated at Surthkal. They are having undivided right in 10 cents of land in Sy. No. 120-1A and they have agreed to surrender to the developer to demolish and to put up a new complex on the same land along with 32 cents of land adjacent to the same. The developer has agreed to build a commercial complex by name AHIKARI ACROPOLIS in the said 42 cents land only after surrendering the present complex along with their proportionate land to the developer. In order to demolish the present commercial complex the complainant being the owner of his shop premises had to give consent for demolition. Further it is the case of the developer that in order to complete the commercial complex in 42 cents the complainant and other shop owners had to do some pre obligations. In this regard the developer has said in his legal notice as under:

*You are aware that the western side of the said commercial complex ATHISKARI ACROPOLIS (ground floor) has already been completed as such my clients are in a position to accommodate your shops temporarily there so as to enable my client to demolish the building ATHIKARI COMPLEX and clean the front side of the building ATHIKARI ACROPOLIS interlock it so that the completion certificate from the Mangaluru City Corporation could be obtained soon and thereafter to execute necessary documents for transfer of the new shops to you in the building Athikari Acropolis in exchange of your said old shops.*

*You may please note for the registration of the new shop premises in the building ATHIKARI ACROPOLIS to your respective name, you are required to provide my clients the original documents including khatha, sale deed of your*

*D. S. S. S.*  
*06/08/2020*

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*respective shops so as to arrange for the registration of new shops to you in the said building.*

8. By going through the same it is understood that the complainant and other 8 persons had agreed with the developer for development of their respective shop premises. In order to put up the new commercial complex the complainant and other had to do some preliminary works. In fact Agreement was executed on 31/08/2016 where as the legal notice was got issued on 27/08/2018. It means till the said day there was no co-operation from the complainant himself. The developer has produced one document where the complainant has given consent to Mangaluru City Corporation on 30/11/2018 to demolish his old premises. This is the main point of the developer to say that the delay was caused only on account of non performance of some of the duties owe to the complainant himself. It appears that there was some exchange of notices between them.
9. I would like to say that the dispute arisen between them is not actually covering under the present Act. Since the agreement is not an Agreement for sale as defined in the present Act. It was an agreement for redevelopment of the commercial Complex. In order to complete the same the complainant and others had to do some obligations which was not done by them which is clear from the series of notices. Further a format copy of Deed of Partition is also produced for which the complainant and others had to sign to complete the proposed project. In this connection I would like to say on the undertaken given by the developer in his objection statement itself that:

*Deed*  
*06/07/2018*

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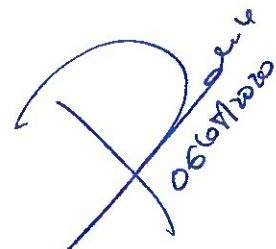
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*This respondent is ready to execute proper document for the conveyance of the shop premises agreed to be given to him provided he should join other shop owners also so that a single document can be drafted and registered. Hence, the complainant may be advised to join the partition deed to be executed in respect of the premises situated in the ATHIKARI ACROPOLIS project and provide this respondent all the documents in original pertaining to this old exchanged shop.*

10. In view of the same now the dispute is very clear that in order to shift the premises the complainant had to vacate his old premises and give consent to the competent authority to demolish the same. The same was done by him only on 30/11/2018. They had to oblige as per the terms and conditions made out in the agreement dated 31/08/2016 which has not been followed by the complainant. The delay has been caused to the project is also for the reason of non-performance of the respective duties. It is learnt that the developer has already taken the completion certificate. In view of the same to conclude the dispute between the parties it is better to direct the developer to execute necessary documents in favour of the complainant within 30 days from today by putting him in to the possession of the same. At the same time the complainant also has to do his part of performance if any to comply the direction of this authority by the developer. With this observation I allow this complaint.

11. As per Section 71(2) of the Act the complaint shall be disposed of within 60 days. This complaint was filed on 23/12/2019 where the parties have appeared 24/06/2020. At this stage it is necessary to some facts. The matter was posted for appearance of the complainant on 19/03/2020. In the meanwhile on account of natural calamity COVID-19 the whole nation was put under lock

  
06/07/2020



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down completely from 24/03/2020 till 17/05/2010. In view of the office order the case was called through Skype and finally heard the parties and as such this judgment could not be passed and as such it is with some delay. With this observation, I proceed to pass the following.

**ORDER**

- a. The Complaint filed by the complainant bearing No. CMP/191223/0005028 is hereby allowed in part.
- b. The developer is hereby directed to execute the necessary document and put him in possession of agreed shop premises as per agreement dated 31/08/2016 within 60 days from today.
- c. The complainant is directed to do his part of performance if any to enable the developer to comply with the direction of this authority.
- d. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 06/08/2020).

(K. PALAKSHAPPA)  
Adjudicating Officer