

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

KARNATAKA REAL ESTATE REGULATORY
AUTHORITY BENGALURU
BEFORE ADJUDICATING OFFICER
PRESIDED BY SRI K. PALAKSHAPPA
DATED 15th DECEMBER 2020

Complaint No.	CMP/UR/190624/0003377
Complainant	Ajay Agarwal 1398, Muninagappa Layout, Chowdappa Garden, 4 th Cross, Kvalbyre Sandra Post, R.T. Nagar, Bengaluru-560032 In Person
Opponent	Karnataka Postal and Telecom Employees housing Co-op. Society Limited Rep. by J. Javaraiah Promoter, 7, Sandesh Bhavan, 3 rd main, 1 st Stage, Postal Colony, Sanjay Nagar, Bengaluru -560094

1. The complainant has filed this complaint bearing No. CMP/UR/ 190624/0003377 under Section 31 of RERA Act against the project "Sandesh Nagar-2" developed by 'Jayaramaiah, seeking for the relief of delay compensation. His complaint reads as under:

*I booked 50'x80' site in aforesaid project in May 2011.
The society told me that the site will be given within 16
months. The society sent letters dated 5.10.12, 25.2.13,
5.10.13, 6.11.13 confirming that all required approvals*

15/12/20

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*including layout plan and sanctions have been received and that the site will be allotted by March 2014 and hence asked me to deposit full amount for the site. After I paid full amount that is Rs. 19.20 lakhs by Feb 2014, the Society has neither allotted nor registered the site in my name till date. I contacted the society several times, but I did not get the site till date, hence this complaint.
(Secretary Name/Phone: Mahesh / 88619 09997)*

Relief Sought from RERA : Site allotment, Register and compensation for delay

2. After registering the complainant notice has been issued to the parties, the complainant has appeared in person where as the respondent has appeared through his Secretary Sri Mahesh who admitted the same.
3. Since the complaint was filed against unregistered project the Secretary has initiated the proceedings against the developer for violation of Section 3 of the Act. Afterwards Secretary has sent the complaint to the Adjudicating Officer for Adjudication of the Complaint in the month of January 2020.
4. The case was called on 07/02/2020 where the complainant has appeared in person but the developer did not. When the case was posted to 02/04/2020, it was not called on that day on account of lock down was declared from 24/03/2020 till 17/05/2020. After lifting the lock down the case was called through Skype.
5. Heard arguments of the complainant and Secretary of the respondent.
6. The point that arise for my consideration is

Dear
15/12/2020

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- a. Whether the complainant proves that he is entitled for delay compensation?
b. If so, what is the order?
7. My answer is affirmative for the following

REASONS

8. It is the case of the complainant that he became the member of the respondent society. He was assured that he will be allotted a site measuring 50x80 Sq. feet site and it will be delivered within 16 months. i.e on or before October 2012 but the same has not been done. The complainant has given Rs. 19,20,000/-towards the site price. His name is found with site no. 31 measuring 4000 square feet. Since the respondent has failed to allot the same the present complaint came to be filed. The present Secretary of the society Sri Mahesh assured before this authority that he will allot a site to the complainant. Then the only point remained for my consideration is for delay compensation. As per section 18 of the act the developer is bound to compensate the complainant. Even today also the developer has failed to complete the project and thereby he is liable to pay delay compensation to the complainant from the due date till he delivers the possession. Moreover the developer has committed one more error in not registering the project with this authority and thereby he has violated Section 3 of the act. Non completion of the project within the due time is in violation of Section 18 of the act and therefore he is liable to pay the delay compensation. The complainant has produced the necessary documents to prove his case. Hence, I hold that the complainant is entitled for the relief as sought in the complaint.

[Handwritten signature]
15/10/2012

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9. The complainant has paid considerable amount from 2011 to 2014 but till today he is not able to get the site means there is a clear violation and thereby the developer shall compensate the complainant with interest as applicable. I find no good reasons to dismiss the complaint. At this stage I would like to say that though the project was ^{commenced} in the year 2011 but till this date it has not obtained the 100% release order. Hence, it is an on-going project as on 01.05.2017 and as such the provisions of the RERA Act are applicable. The complainant in his original complaint stated that he requires delay compensation and other relief. While filing the written complaint he made the list of reliefs as under :

- a. Take appropriate action against the respondent Society under Section 3 of RERA Act for non-registration of projects.
- b. Issue necessary directions to allot and register 50' x 80' plot immediately in the name of the complaint in the approved Sandesh Nagar - 2 Layout free from all litigation and encumbrances.
- c. Impose appropriate penalty for non-allotment and registration of site in the name of the complaint even after 6 years of taking full amount for the plot.
- d. Grant any other relief to the complainant that this authority may deem fit.

10. The above reliefs are mostly covering the Jurisdiction of Authority since the Adjudicating Officer cannot decide those issues. Therefore relief of the complainant is restricted to only for delay compensation with a liberty to take action separately for the remaining reliefs.

11. 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

Periy
15/12/2017

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the Authority within 60 days from the date of receipt of the complaint. This complaint was filed on 24/06/2019. Since this complaint was filed against the unregistered project. The file was with the Secretary who has taken necessary steps against the developer with regard to the registration of his project. Later the complaint has been transferred to this authority on 31/12/2019 for disposal in accordance with law. In the meanwhile on account of natural calamity COVID 19 whole nation was locked down completely from 16/03/2020 till 16/05/2020 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/UR/190624/0003377 is hereby allowed
- b. The developer is hereby directed to pay the delay compensation in the form of simple interest commencing from due date @ 9% p.a. till April 2017 and simple interest @ 2% above the MCLR of SBI till the possession is delivered by obtaining the occupancy certificate.
- c. The developer is also hereby directed to pay Rs.5,000/- as cost of the petition.
- d. The complainant may file memo of calculation as per this order after 60 days in case the developer has failed to comply with the same to enforce the order.
- e. Intimate the parties regarding the order.
(Typed as per dictated, corrected, verified and pronounced on 15/12/2020).

K. Palakshappa
Adjudicating Officer

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