



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Cmp.No.: 4974

ಪುಟ ಸಂಖ್ಯೆ - 9 -

ವಿಷಯ Anjaneyulu Gowrishetty

Sobha Arena - Pebble Court (Block-1)

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP-4974

12.03.2022

As per the request of the authorised person of the respondent the matter is taken up today before the Lok – Adalat. The complainant through e-mail dated ~~25.08.2021~~ has requested to close the complaint as the respondent has satisfied the claim of the complainant in this case. Therefore the execution proceedings in the above case is disposed off and closed in the Lok – Adalat as settled. The revenue recovery warrant, if any, issued against the respondent in execution proceedings in the above case is hereby recalled. The office is hereby directed to issue intimation to the concerned revenue authority about the re-calling of revenue recovery warrant.

N. J. J. J.

12/3
Judicial Conciliator.

S. J. J.
Advocate Conciliator.

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

1

BEFORE ADJUDICATING OFFICER
PRESIDED BY SRI I.F. BIDARI
DATED 27TH July 2021

Complaint No.	CMP/191221/0004974
Complainant:	Anjaneyulu Gourishetty, C204, G R Lavebdar Apartment, 87/8 Kothnur, J P Nagar 7 th Phase, Bengaluru Urban - 560076. (In Person)
Respondent:	Sobha Limited., Sarjapur-Marthahalli, Outer Ring Road, Bellandur Post, Bengaluru - 560103 (By: Sri. N. Keshavamurthy, Authorized Signatory)

J U D G M E N T

Sri. Anjaneyulu Gourishetty (here-in-after referred as complainant) has filed this complaint bearing No. CMP/191221/0004974, under Section 31 of The Real Estate (Regulation and Development) Act 2016 (here-in-after referred as Rera Act) against the respondent Sobha Limited., (here-in-after referred as respondent) seeking relief of refund of booking amount and compensation.

2. The brief facts of the case are as under:

✓

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

2

The complainant submitting the unit application dated:03.12.2018 did book unit No.B1-2143, (here-in after referred as flat) in "Sobha Arena- Pebble Court (Block-1)", project paying an amount of Rs.6,50,000/-. The flat No.B1-2143, is one of the flat among the developed flats in the project. The complainant alleged in the complaint that he has received intimation dated 03.12.2018 with allotment of flat B1-2143 in the project, thereafter payment of booking amount of Rs.6,50,000/- through cheque No. 000011 dated 30.11.2018 drawn on HDFC bank. He has received flat booking cancellation letter dated 17.07.2019 from the respondent but did not receive the refund of the booking amount till date of filing the complaint. Therefore, the complainant filed this complaint seeking refund of booking amount of Rs.6,50,000/- with compensation.

3. There-after receipt of the complaint from the complainant, notice was issued to the respondent. The respondent has appeared through its authorised signatory Sri. N. Keshavamurthy. It is contended that the complainant going through the terms and conditions, voluntarily submitted unit application dated: 03.12.2018. The complainant has paid Rs.6,50,000/- towards booking /earnest money. The respondent issued payment receipt, cost breakup and payment schedule. The complainant originally had booked flat No. B1-2113 in the project and then shifted to flat No. B1-2143, on 03.12.2018, which was agreed by the respondent and issued intimation letter with regard to the shifting. The

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

3

complainant on his own has cancelled the flat, without proper reason and not due to fault on the part of the respondent. As per clause 8 of the unit application and as per clause 7.5 of the approved agreement for sale draft notification dated: 15.06.2020 bearing No.DOH-8 RERA 2017 issued by the Government of Karnataka, the respondent is entitled to forfeit booking amount if cancel the booking of flat without default of the respondent. The respondent further contending that without prejudice to it's contentions, respondent has refunded Rs.6,00,000/- on 06.01.2020 through online payment, to the complainant as full and final settlement of the dispute in this complaint, deducting Rs.50,000/- towards administrative cost. These main grounds among others contended in the statement objections, prayer to dismiss the complaint with cost.

4. I have heard the complainant who appeared in person also heard Sri. N. Keshavamurthy, Authorised Signatory of the respondent, on behalf of the respondent, through Skype. The written submission is filed on behalf of the respondent. Perused the records, materials and written submission.
5. The points that would arise for consideration are:
 - (1) Whether the complainant is entitled for the relief sought?
 - (2) What order?
6. My findings on the above points are as under:



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

Karnataka Real Estate Regulatory Authority Bangalore

ನಂ:1/14, ನೆಲ ಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್, ಸಿ.ಎಸ್.ಎ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ,
ಬೆಂಗಳೂರು-560027

4

Point No.1: Partly in the affirmative.

Point No.2: As per final order, for following:-

REASONS

7. Point No.1: The complainant during argument submitted that subsequent to booking of flat, he has canceled booking of the flat as he was not satisfied with the information provided to him during the flat booking. The complainant further submits that accepting his prayer for cancellation of the flat the respondent through e-mail dated 17.07.2019 agreed to cancel the booking but not refunded booking amount. The complainant during argument submits that he has received Rs. 6,00,000/- out of the booking amount and prayed to direct the respondent to refund him balance booking amount with compensation by way of interest on the booking amount. As rightly submitted by Sri. N. Keshavamurthy authorised signatory of the respondent, the clause 8 of unit application, and clause 7.5 of the approved agreement of sale draft in notification dated:15.06.2020 bearing No.DOH-8 RERA 2017 issued by the Government of Karnataka, in case the homebuyer/purchaser cancel the booking of the flat, without fault on the part of the builder, then builder/developer has right to forfeit the booking amount, to the extent mentioned therein. As rightly submitted by the authorized signatory of respondent, the complainant has cancelled the booking of the flat on his own, unilaterally and without default on the part of the respondent. As discussed above the

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

5

complainant has cancelled booking of the flat voluntarily, on his own, without default on the part of the respondent but the reason for cancellation of booking of flat is that complainant was not satisfied with the information provided during the flat booking. The authorized person of the respondent in support of the argument that where the complainant has cancelled the booking of the flat on his own as such the booking amount is liable to be forfeited has placed reliance on the judgment dated:18.10.2012, passed by the Hon'ble Supreme Court of India in civil appeal No.7588 of 2012 in the case of Sathish Batra V/s Sudhir Rawal. The authorised signatory also placed reliance on the order dated 13.08.2014 passed by the Hon'ble A. P State Consumer Disputes Redressal Commission at Hyderabad in F. A. No. 62 of 2013 in the case of Ch. Srinivas V/s Mantri developers Pvt. Ltd., and another. The ratio and the principles let down by their lordships in these rulings is undisputed but same will be of no help to the respondent as facts of the said rulings and facts of the case on hand are different. The learned authorised signatory of the respondent in support of the argument placed reliance on the judgment dated 30.1.2019 in Complaint No. CMP/181205/0001719 passed by the learned Adjudicating Officer of this Authority but same will be of no help to the complainant in this case. The respondent utilized/ and is utilizing the booking amount paid by the complainant. Though the respondent is contending that booking amount in question is liable to be forfeited as per clause 8 of the unit application submitted by the

X

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

6

complainant, in the event of cancellation but respondent in as much as repaying Rs.6,00,000/- out of the booking amount, impliedly conceding that under law it is just to refund the booking amount but forfeited/ deducted Rs.50,000/- out of the booking amount towards administrative cost. As discussed above the complainant has cancelled booking of the flat voluntarily, on his own, without default on the part of the respondent under the circumstances the complainant is entitled for refund of the booking amount but without interest on the said amount. The respondent for having utilized/and is utilizing the booking amount of the complainant, is not justified in forfeiting/deducting remaining Rs.50,000/- balance booking amount towards administrative cost. The complainant has already received back Rs.6,00,000/- out of the booking amount, as such, it is just to order return of remaining Rs.50,000/- balance booking amount but without interest. Thus, I hold point No. 1 partly in the affirmative for consideration.

8. As per the provisions contemplated U/sec. 71(2) RERA Act the complaint shall have to be disposed off within 60 days from the date of receipt the complaint. The instant complaint has been filed on 21.12.2019, thereafter notices issued directing the parties to appear through Skype for hearing as because of COVID-19 pandemic the personal hearing before the Adjudicating Officer not yet commenced. The parties given the reasonable opportunities to contest the case, as such, the judgment is being passed on merits, with some delay.

✓

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

7

9. Point No.2: In view of my findings on point No.1, I proceed to pass the following:-

ORDER

- (i) The complaint filed by the complainant bearing No.: CMP/191221/0004974 is partly allowed.
- (ii) The respondent is hereby directed to re-pay Rs.50,000/- to the complainant towards balance booking amount of the flat but without interest, within 60 days from the date of this order, failure to which the respondent to pay interest on the said amount of Rs.50,000/- from the date of default @ 2% above the MCLR of SBI till payment of entire amount.
- (iii) The parties to their own cost in this petition.
- (iv) The complainant may file memo of calculation as per this order after 60 days in case respondent failed to comply with this order to enforce the order.
- (v) Intimate the parties regarding this order.

(Typed to my dictation directly on the computer by the DEO, corrected, verified and pronounced on 27.07.2021)


I.F. BIDARI

Adjudicating Officer-1

NOT AN OFFICIAL COPY