

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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 AUTHORITY

Dated 4th January 2023

COMPLAINT NO: CMP/180802/0001107

COMPLAINANT:

SRI.SREEKANTH.C.B

A004, Bren Woods,
Doddanagamangala,
Electronic City Phase II,
Bengaluru-560100

(By Smt.H.H.Sujatha, Advocate)

/vs/

RESPONDENT:

**BANGALORE DEVELOPMENT
AUTHORITY**

Kumara Park West,
Bengaluru
Karnataka-560020

(By Sri. B. Vachan, Advocate)

INTERIM ORDER

1.The aforesaid complainant has filed this complaint under section 31 of RERA Act against the Project 'FORMATION OF NADAPRABHU KEMPEGOWDA LAYOUT' and sought for the relief to direct the Respondent to hand over the possession of Site No:B4-SH-3825 with delayed interest and to complete the project in time as agreed and also requested the authority to pass an Interim order by directing the Respondent not to alienate the Site No:B4-SH-3825 till disposal of the complaint.







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2. The said project is being developed by the Respondent on various survey numbers at Kengeri Hobli, Bengaluru and allotted the Site No:B4-SH-3825 measuring 12 x 18 Mtrs in favour of the Complainant vide Letter No:Be.Aa.Pra/U.Ka-4/NPKL/B4-SH-3825/2017-18 and the said project has been registered before K-RERA vide Reg.No:PRM/KA/RERA/1251/310/PR/180518/001726 with the end date of the project as 31-12-2021 but the Respondent has neither completed the project as agreed upon nor taken further extension from the Authority.

3. **The brief facts of the complaint are as under:** The respondent, has initially allotted the site No:B9-SC-2251 measuring 12 x 18 Mtrs for total sale consideration amount of Rs:52,31,255/- (Rupees Fifty-Two Lakhs Thirty-One Thousand Two Hundred Fifty-Five Only). Thereafter, the complainant has visited the layout, wherein he has observed that the development works are unsatisfactory and location of the plot is also not in proper place, hence the complainant has written a letter to the Respondent on dt:13/06/2017 and requested to allot an alternative site preferring at Block-5 east facing, so that he can reconsider his decision to stay with layout.

4. As per the request made by the complainant, the respondent has allotted alternative site No:B4-SH-3825 measuring 12 x 18 Mtrs on dt: 8/12/2017 vide letter No:Be.Aa.Pra/U.Ka-4/NPKL/B4-SH-3825/2017-18. Though the complainant has paid full and final sale consideration amount, the Respondent has sent demand note on dt:14-05-2018 vide No:97749/BDA/DS-3/2018-19 and asked to pay

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penalty of Rs: 2,94,206/- (Rupees Two Lakhs Ninety-Four Thousand Two Hundred Six Only) for delay payment, wherein Rs: 2,42,000/- (Rupees Two Lakhs Forty-Two Thousand Only) towards Penalty and Rs:52,324/- (Rupees Fifty Two Thousand Three Hundred Twenty Four Only) towards TDS.

5. The complainant has paid Rs: 2,42,000/- (Rupees Two Lakhs Forty-Two Thousand Only) towards penalty amount on dt: 28/10/2021 at the rate of 21% along with the request letter. After making penalty amount, the complaint has requested the respondent to execute the sale deed in his favour but the respondent has failed to do so.
6. As the said project got registered under K-RERA, the complainant has lodged the present complaint before K-RERA and prayed to direct the Respondent to pay delay Interest and to waive off the penalty and to give direction to the Respondent to execute the sale deed in favour of the complainant.
7. During the course of hearing, the complainant further stated that, as per RERA, the delayed interest, if any, payable by the promoter to the Allottee or by the Allottee to the promoter shall be the State Bank of India highest marginal cost of lending rate plus two percent. Though the project registration was taken in K-RERA, the Respondent has put exorbitant delayed interest/ penalty at the Rate of 18% and 21%.







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8. The complainant had visited the respondent's office dt: 25-05-2019 and made necessary enquiries, wherein, he came to know the facts that, the respondent is intending to cancel the allotment, hence submitted a request letter to the Respondent and intimated that the development activities such as basic amenities are not completed, as a result, the development of the said layout is still under progress and also intimated that, the penalty imposed is exorbitant and the same is not as per the RERA Act. The complainant has also served the copy of the complaint to the Respondent and intimated not to cancel the allotment as the complaint is pending before the authority.

9. During the course of hearing, the complainant has sought this authority to pass an Interim order to direct the Respondent to not to alienate the said site till disposal of complaint.

10. On the other hand, representatives and advocate for defendant were present and prays time on several occasions to file an objection and to take further needful action under the law.

11. Heard the parties of both sides and perused the documents.

12. The points that would arise for the authority consideration are as follows;

1. Whether the complainant has made out a prima facie case for grant of Interim relief?

2. What Order?

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13. Findings of the Authority on the above points are as under;

Point No:1: In the Affirmative

Point No:2: As per order, for the following;

FINDINGS

14. **Our findings on point no:1:** The complainant has filed this complaint against the respondent to execute the sale deed and for delayed interest and to return the penalty amount and also requested to direct the respondent to not to alienate the said site till disposal of the complaint.

The respondent, has allotted Site No:B9-SC-2251 measuring 12 x 18 Mtrs for total sale consideration amount of Rs:52,31,255/- (Rupees Fifty-Two Lakhs Thirty-One Thousand Two Hundred Fifty-Five Only). Thereafter, the complainant has visited the Layout, wherein he has observed that the development works are unsatisfactory and location of the plot is also not in proper place, hence the complainant has written a letter to BDA on dt:13/06/2017 and requested to allot an alternative site preferring at Block-5 east facing, so that he can reconsider his decision to stay with layout.

As per the request made by the complainant, the respondent has allotted alternative site No:B4-SH-3825 measuring 12 x 18 Mtrs on dt: 8/12/2017 vide Letter No:Be.Aa.Pra/U.Ka-4/NPKL/B4-SH-3825/2017-18. Though the complainant has paid full and final

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amount, the Respondent has sent Demand note on dt:14-05-2018 vide No:97749/BDA/DS-3/2018-19 and asked to pay penalty of Rs: 2,94,206/- (Rupees Two Lakhs Ninety-Four Thousand Two Hundred Six Only) for delay payment.

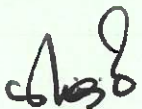
The matter of the BDA charging exorbitant rate of interest and the other prayers of the complainant will be considered during the final hearing. However, the apprehension that after having paid the amount demanded by BDA the respondent is still contemplating to cancel the allotment has to be addressed by the Authority especially in view of the fact that the respondent has collected penalty for delay in payment by the complainant. Hence the Authority feels it necessary to pass an interim order restraining the respondent from cancelling the allotment to the complainant of site no. B4-SH-3825. This order shall be in force until further orders by this Authority.

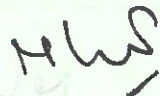
Accordingly, the point raised above is answered in the Affirmative.

15. Our findings on point no:2: In view of the above discussion, we proceed to pass the following;

INTERIM ORDER

In exercise of the powers conferred under section 31 of the Real Estate (Regulation & Development) Act, the prayer of the complainant is hereby allowed.








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1. The Respondent is hereby restrained to alienate the site No:B4-SH-3825 measuring 12 x 18 Mtrs which was allotted on dt: 8/12/2017 vide Letter No:Be.Aa.Pra/U.Ka-4/NPKL/B4-SH-3825/2017-18 till disposal of the complaint.


(NEELMANI N. RAJU)
Member
K-RERA


(G.R. REDDY)
Member
K-RERA


(H.C. KISHORE CHANDRA)
Chairman
K-RERA

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