

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 BEFORE BENCH-4
PRESIDED BY SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN

Dated 4th DAY OF AUGUST 2023

COMPLAINT NO. CMP/201213/0007243

COMPLAINANT:

MADHUSUDHAN
THYAMAGONDLU RAJANNA &
USHA DEVI S.
NO; 13, 3RD MAIN, 3RD CROSS
NETAJI ROAD, JAVARAIAH
GARDEN, THYAGARAJA NAGAR
BENGALURU URBAN-560028

(IN PERSON)

V/s

RESPONDENT....

M/s 5 ELEMENTS REALTY
ADITYA HARMONY
KANAKAPURA ROAD
VAKIL GARDEN CITY
THALAGHATTAPURA
BENGALURU URBAN-560034.

(ABSENT)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act, against the project 'ADITYA HARMONY' developed by "M/s 5 ELEMENTS" for



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the relief of direction to the respondent to allot minimum size car parking.

2. During the proceedings held on 26/9/2022, the complainant has submitted a letter dated 26/9/2022 to this Authority stating the he would like to amend the respondents, a partnership firm "Sri Aditya Enclave" having its office at No: 501/1, Shop No: 2, Datta Complex, 12th Main, 1st Stage, C.J. Venkatdas Road, Padmanabanagar, Bengaluru-560070 represented by its Managing Partners (1) P. Kumar and (2) E. SRINIVAS. Further, during the hearing held on 17/2/2023 the complainants have again submitted one more letter dated 17/2/2023 praying this Authority to include the abovenamed promoters. Accordingly, this office has sent notices to their given address on 20/2/2023 but it is left unserved as "address not found".
3. The respondent has developed this project situated at Sy.No. 22/2, Thalaghattapura village, Uttarahalli hobli, Bengaluru South Taluk, Bengaluru.
4. This project is not registered in RERA. This Authority has passed an interim order dated 18/10/2022 with direction to the respondent-promoter to register the project as required under section 3 of the RERA. But the respondent is yet to register the project.
5. **The brief facts of the complaint are as under:** The complainants are the owners of the flat no.014 in the project "ADITYA HARMONY" of the respondent-1. It is contended that they are facing parking issues



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due to the insufficient parking space allocated by the promoter. As per the plan shown at the time of booking of the flat, the parking has not been allocated in the same manner and the parking space that is allocated to them is very congested to park or taking out of the vehicle. This issue was addressed to the promoter i.e. 5 Elements Realty on multiple occasions but the promoter has failed to resolve this issue and no action has been taken from the past 2 years. The parking space given does not comply with the standards based on the parking area shown as per the approved plan. As per the approved plan, the total number of flats are 56 and the approved car parking slots are 62. The promoter has been selling the remaining 6 parking space to the residents of Aditya Harmony. Since they have parking issues and requested the promoter to change the car parking and he refused. The flat was purchased in the year 2018 but they have been made forcefully to pay the tax amount for both 2017 and 2018 respectively. The promoter refused to clear all the dues. Hence, this complaint.

6. After registration of the case, in pursuance of the notice, the respondent no.1 has remained continuously absent during the hearings held on 12/8/2022, 26/8/2022, 26/9/2022, 17/10/2022, 18/11/2022, 17/2/2023, 27/3/2023, 10/4/2023 and on 21/4/2023. Hence, in spite of providing sufficient opportunity, it is seen that the respondent has not appeared before this Authority to put forth his grievances and has not taken any interest to participate in the proceedings by filing statement of objections, producing documents if any on his behalf but remained absent on all the aforesaid dates of hearings..



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7.The complainants in support of their claim, have produced documents such as (1) sale deed dated 2/7/2018 (2) Schedule mentioning about the covered car parking (3) cost breakup showing a sum of Rs.2,00,000/- paid for the car parking (4) approved plan showing the car parking space for flat no.14.

8. Heard both the complainant.

09. On the above averments, the following points would arise for the consideration of the Authority.

- 1.Whether the complainants are entitled for the relief claimed?
2. What order?

10. Findings on the above points are as under:

1. In the Affirmative
2. As per final order for the following:

FINDINGS

11. **Findings on point no.1:** The grievance of the complainants is that the builder has allocated insufficient parking space. As per the plan shown at the time of booking the flat, the parking has not been allocated in the same manner and the parking space that is allocated to them is very congested to park or taking out of the vehicle. They have paid Rs.2,00,000/- for car parking.



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12. During the proceedings held on 18/11/2022, this Authority has directed for spot inspection of the project by engineering team of RERA. As per the directions of the Authority, engineering team of RERA have visited the spot and after due inspection submitted the report dated 16/12/2022. As per the inspection report, the car parking has been provided to the complainants of flat no. G-14 in stilt floor in slot no. 14 measuring 2.30 x 4.95 meters.

13. It is pertinent to note that it is not upto the minimum size (2.50 x 5.00 meters) of car parking as required under the rules of the various Government Agencies.

As per Section 16(a) of BBMP Building Bye-laws, 2003, car parking space was enumerated as follows:

“16(a) Each off street car parking space provided for motor vehicles shall not be less than 18 Sqmtrs.(3 meters x 6 meters)”.

14. Under such circumstances, based on the inspection report submitted by Engineering team, RERA dated 16/12/2022, this Authority is of the considered opinion that it is necessary to give directions to the respondent-promoter to provide the car parking space to the complainant as per BBMP Building Bye-laws, 2003.

15. Despite of several notices served upon the respondent, he did not appear before this Authority but continuously remained absent on all the dates of hearings. Subsequently he has failed to file statement of objections and furnishing documents in support of his defence and hence not contested the matter. Considering all these aspects, the point raised above is answered in the Affirmative.

ASB

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16. Findings on point no.2: In view of the above findings, I conclude that the complaint deserves to be allowed. Hence, I proceed to pass the following order:

ORDER

In exercise of the powers conferred under section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No: **CMP/UR/201213/0007243** is hereby allowed and the following order is passed.

1. The respondent is hereby directed to provide car parking space to the complainants as per BBMP Building bye-laws, 2003.
2. The complainants are at liberty to enforce the said order in accordance with law if the respondent fail to comply with the order.

No order as to costs.


(H.C. Kishore Chandra)
Chairman
K-RERA