

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 24<sup>TH</sup> DAY OF AUGUST 2023**

**COMPLAINT No: CMP/UR /190924/0004274**

**COMPLAINANT:**

POORNIMA AJAY GACHHI  
W/o AJAY GACHHI  
NO: B-505, PURVA  
SUNSHINE APARTMENTS  
SARJAPUR MAIN ROAD  
OPP; KAIKONDRAHALLI  
LAKE  
BENGALURU URBAN-560035  
(BY PREETHI N. ADVOCATE)

V/S

**RESPONDENT:**

1. Y.A. NARASIMHA MURTHY  
PROMOTER  
M/s N & N LAND  
DEVELOPERS & BUILDERS  
NO; 32/B, RBI HOUSING  
COLONY, 3<sup>RD</sup> BLOCK EAST  
JAYANAGAR  
BENGALURU URBAN-560011
2. B.R. TIRUMALAI  
NO;32/B, RBI HOUSING  
COLONY, 3<sup>RD</sup> BLOCK EAST  
JAYANAGAR  
BENGALURU URBAN-560011.
3. S. JYOTHI VELU  
NO;32/B, RBI HOUSING  
COLONY, 3<sup>RD</sup> BLOCK EAST  
JAYANAGAR  
BENGALURU URBAN-560011.

(BY D.H. MOKHASHI &  
ASSOCIATES)

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**JUDGEMENT**

1. This complaint is filed under section 31 of the RERA Act against the respondent-promoter "M/s N & N DEVELOPERS AND BUILDERS" for the relief of direction to respondent to allot plot.
2. This project is not registered in RERA. This Authority has passed an interim order dated 1/4/2023 directing the respondent to register the project as required under section 3 of the RERA Act within two weeks from the date of this order.
3. The promoter has developed this project in the limits of Adigarakallahalli, Sarjapura Hobli, Anekal Taluk.
4. **The brief facts of the case are as under:**  
The complainant had booked a plot with "N & N Land Developers and Builders during November 2010. She had paid an amount of Rs.4,00,000/- on 7/7/2010 and Rs.2,00,000/- pm 14/12/2010 altogether Rs.6,00,000/- (Rs. Six lakhs only) to the respondent. It is almost 9 years, even till date the promoter has not handed over the said plot. Further, she did not get any confirmation regarding registration of the said plot. The promoter is not responding and has not returned her amount. The complainant has approached this forum for the relief of direction to the respondent to allot her site and get registered in her name. Hence, this complaint.
5. After registration of the complaint, in pursuance of the notice, the respondent-1 and have appeared before this Authority through its counsel and filed objections as under:

*[Handwritten signature]*

*[Handwritten signature]* 2



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Karnataka Real Estate Regulatory Authority,

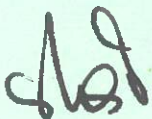
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The respondent no.1 has denied all the allegations made against him by the complainant as false. It is contended that the complaint lodged by the complainant that she has booked the land in the year November 2010 and she has paid a sum of Rs.6,00,000/- (Rs. Six lakhs only) to the respondent is far from truth. If at all the complainant had booked the plot with the respondent, nothing prevented her to call for or demand the same within three years from the date of her booking, as it is barred. There was no land with the promoter for formation of layout and there was no land documents and the allegations made is only just to prejudice the mind of this authority after a belated period of 9 years. The complaint does not contain any substantial proof of evidence of the promise regarding formation of layout. Hence, prayed to dismiss the complaint.

6. In support of her claim, the complainant has produced documents such as (1) copy of formation of layout (2) copy of payment receipts.
7. In support of his defence, the respondent has not produced any documents.
8. Heard both the parties.
9. This matter was heard on 20/6/2022, 29/7/2022, 29/8/2022, 26/9/2022, 24/11/2022, 2/12/2022, 19/12/2022, 10/1/2023, 6/2/2023, 6/3/2023, 27/3/2023, 31/3/2023, 24/4/2023, 22/6/2023 and on 7/7/2023.
10. On the above averments, the following points would arise

for my consideration:-

1. Whether the complainant is entitled for the relief claimed?
2. What order?



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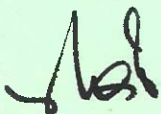
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**11. Findings on the above points are as under:-**

1. In the Negative.
2. As per final order for the following

**FINDINGS**

14. **Findings on point No.1:-** The complainant has approached this forum claiming for the relief of directions to the respondent to execute the sale deed in her favour in respect of her plot which she alleged to has been booked during November 2010.
15. The same is resisted by the respondent on the ground that there was no land at all with the promoter for formation of layout and there was no land documents. The complaint does not contain any substantial proof of evidence of the promise regarding formation of layout. The payment receipts produced by the complainant is standing in the name of one Ajay Gachi. The said Ajay Gachi is not a party in this case. As the payment receipt is standing exclusively in the name of Ajay Gachhi, he is the proper person to file a complaint against the respondent-promoter. Thus, the present complainant has no locus standi to seek any relief before this forum in the respect of said plot.
17. The entire claim of the complainant is based on the copy of formation of layout and copy of payment receipts. On going through the said copy of formation of residential sites dated 9/12/2009, there are no details of property on which the proposed formation of residential sites have been made. Looking at the said documents, it is significant to note that it is nowhere mentioned with regard to description of the property as well as location of the property. Hence, the description of the property is not





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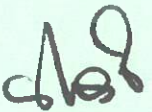
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forthcoming so as to identify the property unmistakably and to grant the relief of allotment of site as prayed for by the complainant. While booking the property based on such documents, buyer has to make sure that particular description shall be published by the respondent-promoter. Herein this case, there was no land at all to form an residential layout. In view of the non-existence of such land or the formation of residential layout, the question of allotting site as sought for by the complainant does not arise at all. In order to grant such relief, it is quite essential to prove the description of the property in the first place on the same analogy it is mandatory for the complainant to prove the description of the property in respect of which she is seeking execution of sale deed from the respondent-promoter.

18. From the available materials on record, it is apparent that there was no land at all with the respondent-promoter for formation of residential layout and there are no land documents. Hence, the complaint does not contain any substantial proof of evidence of the promise regarding formation of layout. In addition, there are no sanctioned plans, approvals etc., with regard to formation of any such residential layout by the respondent. When the complainant has failed to establish that there was a particular land on which formation of residential layout was proposed, the question of taking a plot in the project does not arise at all. Thus, the complaint has not produced any single iota of evidence before this Authority that she has booked a plot in the project of the respondent in November 2010.

19. The complainant has produced the payment receipts of Rs4,00,000/- dated 7/7/2010 and Rs.200,000/- dated 14/12/2010 altogether Rs.6,00,000/- (Rs. Six lakhs only) for having paid to the respondent-promoter towards



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purchase of the plot. From this it is clear that the respondent-promoter had received the said amount from the complainant. Therefore, the complainant is at liberty to approach the jurisdictional forum by filing a fresh complaint in order to seek relief of refund of amount paid by her to the respondent promoter along with interest.


20. Having regards to all these aspects, the point raised above is answered in the Negative.
21. **Findings on point no.2:** In view of the above discussion, the complaint deserves to be dismissed. Hence, I proceed to pass the following:

**ORDER**

In exercise of the powers conferred under section 31 of the Real Estate Regulation and Development) Act, 2016, the complaint bearing No. **CMP/UR/190924/0004274** is hereby dismissed as not maintainable.

2. Further, the complainant is at liberty to approach jurisdictional forum by filing a fresh complaint in order to seek relief of refund of the amount paid by her to the respondent-promoter along with interest.

No order as to costs.

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