

ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ 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 /190924/0004276**

**COMPLAINANT:**

MEGHA YALAGOND PUJARI  
NO;1, PRASHANT  
APARTMENT, GOVIND  
NAGAR, NEAR NEW ERA  
SCHOOL, NASHIK CIDCO  
COLONY, NASHIK  
MAHARASHTRA-422009

(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)

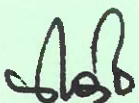
ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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**JUDGEMENT**

1. This complaint is filed under section 31 of the RERA Act against developer "N & N LAND DEVELOPERS AND BUILDERS" for the relief of direction to respondent to allot a 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 claimed to have paid an amount of Rs.10,25,000/- whereas on perusal of the payment receipts it is apparent that she had paid an amount of Rs.4,00,000/- on 2/2/2011, Rs.3,50,000/- on 28/5/2011 altogether Rs.7,50,000/- Rs. Seven lakhs fifty thousand 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.





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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:

The respondent no.1 has denied all the allegations made against him by the complainant as false. It is contended that the complainant has no locus standi to file the present complaint in its present form against the respondent claiming a plot alleged to have been booked by her. There was no land at all 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.

6. Further, the respondent submits that, the RERA Act has come into being in the year 2017 and this Authority has no jurisdiction to entertain the petition. When the layout itself is not formed, the sites have not been carved out, the question of taking the property or registering with the RERA Authority does not arise for consideration. The complainant has not paid the said amount alleged to have been paid and nowhere in the complaint she had stated that she has paid the money to the respondent. Hence, prayed to dismiss the complaint.
7. In support of her claim, the complainant has produced documents such as (1) copy of formation of layout (2) copy of payment receipts.
8. In support of his defence, the respondent has not produced any documents.
9. Heard both the parties.



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10. 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.

11. 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?

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

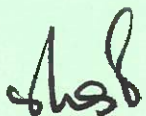
1. In the Negative.
2. As per final order for the following

**FINDINGS**

13. **Findings on point No.1:-** The complainant has approached this forum claiming for the relief of direction to the respondent to execute the sale deed in her favour in respect of her plot which she had alleged to have been purchased booked during November 2010.

14. 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.

15. 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





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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 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.

16. 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.

1/3/10

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17. The complainant has produced the payment receipts of Rs4,00,000/- dated 2/2/2011 and Rs.200,000/- dated 3,50,000/- dated 28/5/2011 altogether Rs.7,50,000/- (Rs. Seven lakhs fifty thousand only) for having paid to the respondent-promoter towards 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.

18. Having regards to all these aspects, the point raised above is answered in the Negative.

19. **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/190924/0004276 is hereby dismissed as not maintainable.

Further, the complainant is at liberty to approach the 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