

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 FULL BENCH**

**PRESENT:**

**SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN**

**SMT. NEELMANI N RAJU, HON'BLE MEMBER**

**SHRI. GURIJALA RAVINDRANADHA REDDY, HON'BLE MEMBER**

**COMPLAINT NO.: CMP/200903/0006486**

**DATED THIS 7<sup>th</sup> DAY OF SEPTEMBER, 2023**

**COMPLAINANT.....**

**KANIKA MASAND,**

S 204, Ajmera Infinity,

Electronic City Phase-1, Neeladri,

Bengaluru - 560100.

**(In person)**

**V/S**

**RESPONDENTS.....**

**1. AANJANEY A,**

DLF Maiden Heights Association,

Rajapura, Bommasandra,

Jigani Link Road,

Bengaluru - 560105.

**2. VEENA PRASAD,**

C109, DLF Westend Heights,

Akshaynagar,


Bengaluru - 122006.

**(Ex-parte)**

\* \* \* \* \*

1. This complaint is filed under section 31 of the RERA Act against the project "DLF Maiden Heights Rajapura Jigani" developed by "M/s. DLF Homes Rajapura Private Limited" situated in Sy. No.70/1, 65/3, 64/1, 63/1P, 66P and 67P, Rajapura, Jigani, Anekal Taluk, Bengaluru for the relief of direction to the respondents to register Association under KAOA 1972 Act, exemption







ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

**Karnataka Real Estate Regulatory Authority,**

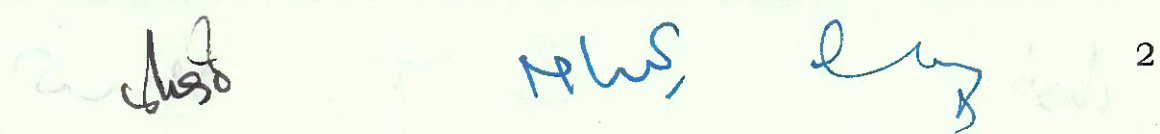
# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

from payment of maintenance bills raised by the illegal entity till date and to pay compensation of Rs.2,00,000/- (Rupees Two Lakhs) against legal fees.

2. This project is not registered in RERA.

**Brief facts of the complaint are as under:-**

3. The complainant has purchased a flat bearing No.2 in the project of the respondent and executed the conveyance deed on 08/12/2020 in favour of the complainant. The Association which is formed under KSRA 1960 is an illegal one and it is not formed under KAOA 1972 Act. The illegal Association is defamation, violence, harassment, physical abuse and humiliation on the pretext of collecting maintenance dues from the complainant. A fake FIR was also filed by the respondent No.1 against the complainant which was subsequently quashed due to lack of evidence. The Association has raised exorbitant bills on complainant and forced to pay by harassing, blackmailing and also physically abusing by not allowing entering at the entry gate for two hours on 04/09/2020 through the security during the pandemic surrounding car and harassing the complainant on instructions of respondent No.1. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondents have never appeared before the this Authority and not contested the matter by filing statement of objections.
5. On 09/09/2021, the respondent has replied to a notice under section 3 of the Act dated 02/09/2021 sent by Executive Engineer, RERA regarding registration of project. The respondent submits that, their residential project – DLF Maiden Heights was completed during the year 2015-16 and the developer has already received completion certificates dated 15/10/2015 and 30/12/2015 issued by Anekal Planning Authority and obtained Occupancy certificate on 10/01/2017 issued by the Hennagara Grama Panchayat. Therefore, as per Section 3(2)(b) of the RERA Act, 2016, they did not require for registration of the project. Hence, prayed to dismiss the complaint.



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

6. In support of her claim, the complainant has produced in all 3 documents such as copy of circular dated 30/11/2018 regarding registration of Association under Karnataka Apartment Ownership Act 1972 and the Karnataka Ownership Flat Act, 1972, conveyance deed dated 08/12/2020 and completion certificate dated 15/10/2015.
7. In support of their defence, the respondents have produced in all 3 documents such as copy of completion certificate dated 15/10/2015, 30/12/2015 and occupancy certificate dated 10/01/2017.
8. Hearings were conducted on 25/01/2022 and 28/03/2023.
9. Heard complainant.
10. **On the above averments, the following points would arise for our consideration:-**
  1. Whether the complaint is maintainable?
  2. What order?
11. **Our findings on the above points is as under:-**
  1. In the Negative.
  2. As per final order for the following

**REASONS**

12. **My finding on point No. 1:-** The complainant has approached this forum for the relief of direction to the respondents to form an Association under KAOA 1972 Act, exemption from payment of maintenance bills raised by the illegal entity till date and to pay compensation of Rs.2,00,000/- (Rupees Two Lakhs Only) by respondent No.1 against legal fees for filing the case.
13. At this juncture, the Authority has to address the issue of maintainability of the complaint. Unless the Authority assumes jurisdiction in respect of the project the issues raised in the complaint filed under section 31 of the Act cannot be addressed. Section 3 of the Act deals with the registration of the





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

projects that are ongoing projects as on the date of commencement of the Act. Only the project which are registered with the Authority or required to be registered with the Authority shall come under the purview of the jurisdiction of the Authority to deal with the complaints filed under section 31 of the Act. This proviso makes it mandatory registration of projects for which the completion certificates have not been issued as on the date of commencement of the Act. In view of this, it is necessary to establish that the project was an ongoing project as on the date of commencement of the Act i.e., 01/05/2017.

14. At this juncture, our attention is drawn towards the decision of the judgement of the Hon'ble Supreme Court of India in Civil Appellate Jurisdiction civil appeal No's.6745 – 6749 of 2021 arising out of SLP (civil) No's. 3711-3715 of 2021 between M/s. Newtech Promoters and Developers Private Limited V/s. State of UP & others (2021 SCC Online SC 1044), it is held as under:

**Para No.80:-** "As submitted by learned counsel for the appellant, it may be true that, the registration alone cannot be a test to decide whether the provisions of the RERA are applicable or not; because, in that case, if the project is not registered, then, it will not be possible to accept that the provisions of the RERA are not applicable to such projects. However, in any considered opinion, this reasoning or logic cannot be applicable to the instant case, as section 3 of the RERA mandates registration. It clearly provides that, no promoter shall even advertise, market, book, sell or offer for sale or invite persons to purchase, in any manner, any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under the RERA. Even in respect of ongoing projects also, this mandate applies, unless it is shown that, 'completion certificate' has been already issued. The word used in section 3(1) and the



*proviso to section 3 in respect of 'ongoing project' is "shall", thereby making the intention of the legislature clear that, in respect of those ongoing projects also, the registration has to be sought within a period of three months from the date of commencement of the Act. Sub-clause (2) of section 3 provides for some exceptions, where registration of real estate project shall not be required and those exceptions are pertaining to the projects, where the area of land proposed to be developed does not exceed 8, inclusive of all phases, or, where the promoter has received completion certificate prior to commencement of the Act. One more execution laid down in clause (c) or sub-section (2) of section 3 is that, when the project undertaken is for the purpose of renovation or repair or redevelopment, which does not involve marketing, advertising, selling or new allotment of any apartment, plot or building, as the case may be; otherwise, for all other development projects, the registration under the RERA is mandatory."*

15. The facts on the case indicate that this project had obtained completion certificate on 15/10/2015 and 31/12/2015 and obtained occupancy certificate on 10/01/2017 issued by the Hennagara Grama Panchayat. These facts indicate that the project was a completed project as on the date of commencement of the Act. Unless this project is required to be registered as an ongoing project or this Authority cannot exercise jurisdiction to adjudicate the complaints filed under section 31 of the Act. As is evident from the facts of the case, this project has to be treated as a completed project within the meaning of section 3(2)(b) of the Act. Accordingly, the point raised above is answered in the Negative.

16. **Our finding on point No.2:-** In view of the above discussion, the complaint deserves to be dismissed. Hence, we proceed to pass the following

*ASB*

*HWS*

*[Signature]*

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

**ORDER**

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. CMP/200903/0006486 is hereby dismissed as not maintainable.

No order as to costs.

  
(G.R. REDDY)

Member  
K-RERA

  
(NEELMANI N RAJU)

Member  
K-RERA

  
(H.C. KISHORE CHANDRA)

Chairman  
K-RERA