

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 BEFORE THE AUTHORITY

Dated 15th September 2023

CMP/220316/0009134

Present

Hon'ble Chairman Shri. H.C. Kishore Chandra

Hon'ble Member Shri. G.R.Reddy

Complainants.....

1. Nishant Kumar

2. Niva Choudhary

D-175, KHUTADIH,
SONARI, JAMSHEDPUR,
Bengaluru - 560037.

(In person)

v/s

Respondent.....

FRONTIER SHELTERS PVT LTD

NO 422 80 FEET ROAD,

6TH BLOCK KORAMANGALA.

Bengaluru-560095.

(By Shri. Girish Kumar, Advocate)

1. This complaint is filed under section 31 of the RERA Act against the project "FRONTIER HEIGHTS" developed by "FRONTIER SHELTERS PVT LTD" of the respondent for the relief of completion with all amenities.
2. This project has been registered under RERA vide registration No. PRM/KA/RERA/1251/446/PR/171214/001250.

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3. The said project is situated at S.NO.49 1 2, HARALUR VILLAGE VARTHUR HOBLI , Bengaluru East , Bengaluru Urban.

Brief facts of the complaint are as under:-

4. The complainants have entered into an agreement of sale on 11/03/2020 to purchase a flat bearing No.4123 in the project of respondent. The respondent was supposed to handover the possession of the said flat to the complainants in 31/08/2020. But, the respondent has failed to handover the possession of the said flat as agreed. Hence, this complaint.

5. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through his counsel, but has not contested the matter by filing statement of objections, producing documents on his behalf etc.,

6. In support of their claim, the complainants have produced documents such as copies of agreement for sale, construction agreement, payment receipts.

7. This matter was heard on 18/04/2021, 30/05/2022, 01/08/2022 and 30/03/2023.

8. Heard arguments of both sides.

9. On the above averments, the following points would arise for our consideration:-

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

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REASONS

11. Findings on Point No.1:- The complainants have approached this forum seeking for the relief of completion with all amenities and compensation for rent. The grounds urged are that the complainants have booked a flat bearing No. 4123 in the project of the respondent by entering into agreement of sale and construction agreement on 11/03/2020. As per the said agreements the respondent was supposed to handover possession of the said flat to the complainants in August 2020. But till date he has not handed over the possession of the flat to the complainants with all the amenities as agreed.

12. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 11/03/2020. The agreement of sale is a key instrument which binds the parties in a contractual relation so as to be properly enforced in accordance with law, it is quite necessary that it shall be free from any ambiguity and vagueness. As per the terms of agreement of sale, the respondent was supposed to handover the possession of said flat to the complainants in August 2020 along with amenities as agreed. But the respondent had not completed and handover the possession of the said flat to the complainants till date.

13. In response to the notice the respondent has appeared before the Authority through his counsel. But, he has not contested the matter by participating in the proceedings, filing objections, producing documents on his behalf etc. Therefore, claim of the complainants remained undisputed and unchallenged. Hence, there is no reason to discard the claim of complainants. In the absence of any resistance by the respondent no option is left to this Authority except to accept the claim of complainants which is corroborated with the cogent evidence.

14. Having regard to all these aspects this Authority is of the view that complainants are entitled for possession of his flat along with all the amenities as agreed.

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Sum and substance of the case is as under.

Date of agreement of sale	11/03/2020
Date of construction agreement	11/03/2020
Sale consideration	Rs. 61,88,504/- (Sixty one lakhs eighty eight thousand five hundred four only).
Amount paid	Rs. 35,20,000/- (Thirty five lakh twenty thousand only)
Promised date of possession as per AOS	30-08-2020
Date of sale deed	Not yet executed
Date of occupancy certificate	Not obtained
Whether the possession has been handed over	No
Prayer	Completion of project with all amenities.

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

15. **Findings on point No.2:-** In view of the above discussion, the complaint deserves to be allowed. Hence, we 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/220316/0009134** is hereby allowed as under.

1. The respondent is directed to complete the project with all amenities as agreed and to handover the flat bearing No.4123 in the project FRONTIER HEIGHTS to the complainants within 60 days from the date of this order.

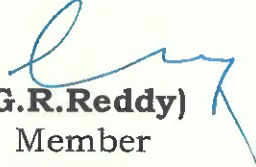
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2. The complainants are at liberty to initiate action in accordance with law, if the respondent fails to comply with this order.

No order as to costs.


(G.R.Reddy)
Member
K-RERA


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

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