

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 30<sup>th</sup> DAY OF SEPTEMBER 2023**

**COMPLAINT No: CMP/210308/0007758**

**COMPLAINANT:**

**PUSHPARAJ KUMAR K.A. &  
HARINI K.S.  
FLAT NO. 17024  
PRESTIGE FERNS  
RESIDENCY  
HARALUR ROAD  
BENGALURU URBAN-560102**

**(IN PERSON)**

**V/S**

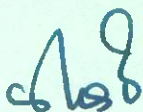
**RESPONDENT:**

**M/S RD BUILDTECH AND  
DEVELOPERS(KARNATAKA)  
PRIVATE LIMITED  
NO: 16 & 16/1  
MUSEUM ROAD  
BENGALURU-560001.**

**(BY SRI. UMESH Y  
ADVOCATE)**

**JUDGEMENT**

1. This complaint is filed under section 31 of the RERA Act against the project "**RELIABLE PRIME CITY PHASE-I**" developed by "**M/S RD BUILDTECH AND DEVELOPERS(KARNATAKA) PRIVATE LIMITED**" for the relief of refund with interest.
2. This project is registered in RERA bearing registration no. PRM/KA/RERA/1251/308/PR/191220/003094.



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3. **The brief facts of the case are as under:**

The complainants have been allotted plot no.235 measuring 1521.49 square feet in the project "PRIME CITY" vide allotment letter dated 24/12/2019 of the respondent-promoter. The complainants have paid an amount of Rs.2,00,000/- 24/12/2019, Rs.6,00,000/- on 3/2/2020 and Rs.6,00,000/- on 28/1/2020 altogether Rs.8,00,000/-(Rs. Eight lakhs only) to the respondent which has been duly acknowledged by him. The complainants vide email dated 18/12/2020 have expressed their desire that owing to COVID PANDEMIC situation, they will not be able to take on additional commitment and hence cancelling the said plot bearing no. 235 and requested for refund of amount. It is contended that despite informing on the cancellation and requesting for the refund on multiple times, he has not received any communication from the respondent from the past two years. Therefore, the complainants have approached this forum seeking for the relief of refund of amount paid along with interest. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, neither the respondent nor his counsel appeared before this Authority during the hearings held on 27/9/2022, 20/10/2022, 8/11/2022, 24/11/2022, 9/12/2022 and on 07/07/2023 but continuously remained absent. Subsequently, he has not contested the matter by participating in the proceedings, filing objections, producing documents on his behalf etc.

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5. In support of their claims, the complainants have produced documents such as allotment letter dated 24/12/2019 and payment receipts.

6. **On the above averments, the following points would arise for my consideration:-**

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

7. **Findings to the above points are as under:-**

1. Partly Affirmative.
2. As per final order for the following

8. **Findings to point No.1:-** From the payment receipt furnished by the complainants, it is apparent that the complainants had booked a Plot No: 235 in the project "**PRIME CITY**" of the respondent-promoter by paying booking an amount of Rs.2,00,000/- on 24/12/2019 and Rs.6,00,000/- on 3/2/2020 altogether (Rs. Eight lakhs only) which has been duly acknowledged by the respondent.

9. Undisputedly, the complainants have booked a site bearing no. 235 measuring 1521.49 square feet in the project "**PRIME CITY**" of the respondent-promoter. Herein this case the claim of the complainant is based on the allotment letter dated 24/12/2019. 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. Looking to the entire averments of allotment letter for purchase of site, it is significant to note that it is nowhere mentioned with regard to description of the property as well as location of the property. The complainant is setting up his claim only on the basis of allotment letter. But description of the property is not forthcoming so as to identify the property unmistakably and to grant the relief of refund with interest as prayed for by

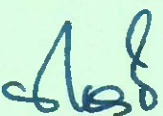
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the complainant. While entering into any such documents, buyer has to make sure that such description shall be incorporated in the allotment letter so as to lay foundation for the claim in the event of any dispute. When the complainant is claiming for the relief based on such documents 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 ambiguity and vagueness. Otherwise, it is quite possible that the buyer may not be able to maintain his claim over the property which he is intending to purchase on account of want of proper description of the property.

10. The relief claimed by the complainant is akin to the one claimed in suit for specific performance before the Civil Court. There also for grant of main relief, it is quite essential to prove the description of the property in the first place. On the same analogy here also it is mandatory for the complainant to prove the description of the property in respect of which he is seeking for refund with the respondent. Such being the case, the complainant is entitled only for refund of his amount of Rs.8,00,000/- (Rs. Eight lakhs only) without any interest.
11. Despite several notices sent to the respondent, neither himself nor his counsel have appeared before this Authority and has not contested the matter by participating in the proceedings, filing objections, producing documents on his behalf etc. Therefore, the claim of the complainants remained undisputed and unchallenged. Hence, there is no reason to discard the claim of the complainants which is corroborated with the cogent evidence.
12. Having regards to all these aspects, the point raised above is answered as Partly Affirmative.
13. **Findings on point no.2:** In view of the above discussion, the complaint deserves to be partly allowed. Hence, I proceed to pass the following:



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**ORDER**

In exercise of the powers conferred under section 31 of the Real Estate Regulation and Development) Act, 2016, the complaint bearing No.**CMP/210308/0007758** is hereby partly allowed.

1. The respondent is hereby directed to refund the principal amount of Rs.8,00,000/- (Rs. Eight lakhs only) to the complainant **within 60 days** from the date of this order.
2. The complainant is at liberty to enforce the said order in accordance with law if the respondent fails to comply with the above order.

No order as to costs.

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

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