

PROCEEDINGS OF THE AUTHORITY

Dated 24th August 2022

CMP/UR/220614/0009627

COMPLAINANT.....

**UKN RESIDENTS WELFARE
ASSOCIATION**

Sy.No: 66/1, Siddapura Village
Varthur Hobli
Bangalore East Taluk
Bangalore-560 066.

**(Represented by Mr. Suhail Ahmed,
Advocate)**

RESPONDENT....

**M/s WATERLINE HOTELS PRIVATE
LIMITED**

10TH Floor, Gamma Block
Sigma Soft Tech Park No: 7
Whitefield, **Bangalore-560 066**

**(represented by Shamanth &
Associates Advocates)**

INTERIM ORDER

1. One UKN RESIDENTS WELFARE ASSOCIATION have filed a complaint against the Respondent M/s Waterline Hotels Private Limited. The Promoter has developed a project called Miriya Rose in the limits of Siddapura Village, Varthur Hobli, Bangalore East Taluk, Bangalore. This complaint is registered in Complaint No. **CMP/UR/220614/0009627**. This project is not a registered project.
2. The gist of the complaint is that the Respondent has got a sanctioned plan in April 2013 which was subsequently modified in January 2015.

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The promoter has allotted or sold apartments to the members of the Complainants Association to complete the development work as per the specifications in the brochure and agreements executed in favour of the allottees. It is the case of the complainant that promoter has failed to complete the project till date by providing all facilities and maintenance. The Respondent has also violated the sanctioned plan by converting the 19th floor into a commercial unit. It is said that the Respondent failed to register the project in complete violation of the Act.

3. The Complainants Association have sought the following reliefs:
 - (a) Registration of Project
 - (b) Completion of development works
 - (c) Formation of Association
 - (d) Transfer of corpus to Association
 - (e) Render accounts of maintenance
4. The complainant has filed written submission along with enclosures dated 12.07.2022 along with copy of judgements dated 20.07.2022.
5. The Preliminary issue is whether the project needs to be registered under RERA?
6. On perusal of the documents filed by the Respondents, it is seen that the promoter has filed an application for issuance of Occupancy Certificate in their letter dated 12.06.2017. However, it is seen that an application for issue of Occupancy Certificate has been filed by the promoter in a letter dated 12.06.2017 addressed to the Joint Director, Town Planning(North). In this letter it is seen that the promoter has claimed to have obtained fire clearance for the project. However, the letter of Fire Service document no. KSFES/CC/172/2017 DATED 20.6.2017

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addressed to the Commissioner, BBMP shows that the fire clearance was issued on 20.06.2017. That being the case, an application to BBMP for issuance of Occupancy Certificate without obtaining fire clearance was premature and cannot be accepted. Further, there is false claim in the letter for issuing of Occupancy Certificate(OC) that they have obtained fire clearance.

7. The Occupancy Certificate issued by BBMP is dated 14.12.2015 according to the document filed by the Respondent himself. A perusal of the Occupancy Certificate shows that the application was dated 21.11.2017 based on which the Occupancy Certificate has been issued. It is very clear from the document that on 31.07.2017 i.e. when the 3 months window for registering ongoing project came to an end, this project was ongoing and hence has to be registered under RERA.

8. In support of his claim, the complainant has furnished the following documents:

- (a) Copy of the Building Sanction Plan bearing L.P. No: BBMP/ADDL.DIR/JDNORTH/0519/2011-12 dated 09.01.2015
- (b) Copy of the brochure of the project Miraya Rose by UKN
- (c) Copy of the Joint Development Agreement dated 31.03.2011
- (d) Copy of the sample Agreement of Sale
- (e) Copy of a series of photographs depicting the damage caused
- (f) Copy of the Occupancy Certificate dated 14.12.2017
- (g) Series of pictures of 19th floor of residential complex demonstrating utilization of 19th floor as a commercial space and additional construction on the terrace
- (h) Copy of the Registration Certificate of the Complainant Association.

cbg

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9. In support of his claim, the Respondent has furnished the following documents

- (a) Structural Stability Certificate dated 12.04.2017
- (b) Form for completion certificate dated 12.04.2017
- (c) Application for issuance of occupancy certificated dated 12.06.2017
- (d) BBMP demand letter for ground rent dated 28.11.2017
- (e) Occupancy Certificate issued by BBMP dated: 14.12.2017
- (f) Registered lese deed dated 23.03.2022
- (g) Sale deed dated 22.06.2018

10. Keeping further issues, the following order is passed.

ORDER

The Respondent is hereby directed to register the project under RERA immediately under section 4 of the Real Estate(Regulation and Development) Act, 2016.



(H.C. Kishore Chandra)

Chairman
K-RERA



(Neelmani N. Raju)

Member-1
K-RERA

