

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 BENCH-4

PRESIDED BY SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN

Dated 10th DAY OF NOVEMBER 2023

COMPLAINT No: CMP/ UR/210831/0008285

COMPLAINANT..

**MOHAN SUNDAR
STERLING BROOKSIDE
E4-20, KUNDALAHALLI COLONY
BENGALURU URBAN-560037**

(IN PERSON)

V/s

RESPONDENT....

**BAKTHAVATCHALAM
PRESIDENT
KARNATAKA TELECOM
DEPARTMENT EMPLOYEES
CO-OPERATIVE SOCIETY
LIMITED
NO: 706, 1ST FLOOR, CBI ROAD
HMT LAYOUT, R.T. NAGAR POST
BENGALURU URBAN-560032**

(EX-PARTE)

JUDGEMENT

1. This complaint is filed under section 31 of Real Estate (Regulation and Development) Act, 2016 against the project "**KARNATAKA TELECOM DEPARTMENT LAYOUT-1**" developed by "**KARNATAKA TELECOM DEPARTMENT EMPLOYEES COOPERATIVE SOCIETY LIMITED**" for the relief of allotment of site. Subsequently, during the proceedings held on 31/3/2023, the



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complainant has filed a representation dated 16/1/2023 and prayed this Authority to amend his prayer for "refund" in lieu of allotment of site. The prayer of the complainant has been taken on record by this Authority and permitted him to amend his prayer as "refund".

2. This project is not registered in RERA. This Authority has passed an interim order dated 15th December 2022 directing the respondent to register the project as required under section 3 of the Act within two weeks from the date of receipt of the said order. But the respondent has failed to register the project.
3. The promoter has developed this project in the limits of Bidaraguppe Village, Attibele Hobli, Anekal Taluk, Bengaluru District.
4. The gist of the complaint is that the complainant is the member of the Karnataka Telecom Department Employees Co-operative Society Limited bearing Membership No. A-10483. He has paid an amount of Rs.2,40,000/- on 24/7/2006, Rs.1,20,000/- on 13/12/2006 and Rs.1,20,000/- on 22/6/2007 altogether Rs.4,80,000/- (Rs. Four lakhs eighty thousand only) towards the purchase of a site measuring 30' x 40 feet in the project "Karnataka Telecom Department Layout-1" of the respondent out of total sale consideration of Rs.6,00,000/- (Rs. Six lakhs only) which has been duly acknowledged by him. It is contended that the respondent has not handed over the possession of the said site as was promised. Having lost confidence with the builder, the complainant has approached this forum for the relief of direction to the respondent for refund of amount paid along with interest as per amended



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prayer for "refund" permitted by this Authority on 31/3/2023.

Hence, this complaint.

5. After registration of the complaint, in pursuance of the notice, the respondent has been continuously remained absent during the hearings held on 27/9/2022, 20/10/2022, 8/11/2022, 25/11/2022, 12/12/2022, 12/12/2022, 16/01/2023, 13/2/2023, 13/3/2023, 31/3/2023, 21/4/2023, 26/6/2023, 17/7/2023, 31/7/2023 and on 31/7/2023. Hence, in spite of providing sufficient opportunity, it is seen that the respondent did not appear before the Authority to put forth his grievances and has not taken any interest to participate in the proceedings by filing statement of objections, producing documents if any on his behalf but remained continuously absent on the aforesaid dates of hearings. Hence, he has been placed as EX-PARTE.

7. In support of his claim, the complainant has produced documents such as payment receipts, brochure of the layout and memo of calculation.

8. 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?

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

1. In the Affirmative.
2. As per final order for the following:

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FINDINGS

10. Findings on point No.1:- The complainant has approached this forum seeking for the relief of refund of amount paid to the respondent. The grounds urged are that the complainant has booked a site measuring 30' x 40' in the project "KARNATAKA TELECOM DEPARTMENT LAYOUT-1" of the respondent-promoter for a total sale consideration of Rs.6,00,000/- (Rs. Six lakhs only). The complainant has paid an amount of Rs.4,80,000/- (Rs. Four lakhs eighty thousand only) to the respondent on various dates which has been duly acknowledged by him. As per the status report dated 26/12/2015 from the President of Karnataka Telecom Department Employees Co-operative Society Limited, the above said layout is expected to complete during the year 2016. The respondent has not handed over the site till date as was promised.

11. Undisputedly, the claim of the complainant is based on the payment receipts dated 22/7/2006, 13/12/2006 and 22/6/2007. He has paid an amount of Rs.4,80,000/- (Rs. Four lakhs eighty thousand only) out of total sale consideration of Rs.6,00,000/- (Rs. Six lakhs only) to the respondent-developer which has been duly acknowledged by him. As per the assurance given by the respondent-promoter vide his letter dated 26/12/2015, the above said layout is expected to be completed during the year 2016. But the respondent has not completed the work within 2016 and handed over the possession of the site on the same day. From this it apparent that the respondent has not completed the development work as agreed. It is obvious that the complainant has paid the substantial sale consideration. Having accepted the said

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amount and failure to keep up promise to handover possession of the site and to register sale deed, certainly entitles the complaint herein for the relief of refund of amount paid along with interest.

12. Despite of several notices served upon the respondent, he did not appear before this Authority and has been continuously remained absent on all the aforesaid dates of hearings. Subsequently, he has failed to file statement of objections and furnishing documents in support of his defence and hence not contested the matter. In the absence of any resistance by the respondent and considering the claim of the complainant which is corroborated with the documentary evidence, there is no option left to this Authority except to accept the claim of the complainant. Accordingly, the points raised above is answered in the Affirmative.

13. **Findings on point no.2:** In view of the above discussion, the complaint deserves to be allowed. 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/210831/0008285** is hereby allowed.

1. The respondent is hereby directed to refund an amount of Rs.4,80,000/- (Rs. Four lakhs eighty thousand only) along with interest to the complainant within 60 days from the date of this order calculated at the rate of 9% from 24/7/2006 to 30/4/2017. Further, at the rate of SBI MCLR +2% from 1/5/2017 till the date of entire realization.



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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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