

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 8th DAY OF NOVEMBER 2023

COMPLAINT No: CMP/ 220826/0009951

COMPLAINANTS..

**PRATHIBHA J.K.
SRIKANTA M
NO: 710, 6TH CROSS, ACB
LAYOUT, HESARGHATTA
MAIN ROAD
BENGALURU URBAN-560090
(REP. BY MANISH ARADHYA
ADVOCATE)**

V/s

RESPONDENT....

**M/S BRIGADE ENTERPRISES LTD.,
29th & 30th FLOOR, WORLD
TRADE CENTER, BRIGADE
GATEWAY CAMPUS
26/1, DR. RAJKUMAR ROAD
MALLESHWARAM-RAJAJINAGAR
BENGALURU URBAN-560055
(REP. BY SONALI S.K.
AUTHORIZED REPRESENTATIVE)**

JUDGEMENT

1. This complaint is filed under section 31 of Real Estate (Regulation and Development) Act, 2016 against the project "**BRIGADE PANORAMA**" developed by "**M/s BRIGADE ENTERPRISES LIMITED**" for the relief of direction to the respondent to pay



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compensation for the interest rate and registration charges to be borne by the respondent.

2. This project is not registered in RERA bearing registration no.PRM/KA/RERA/1251/310/PR/170916/000125
3. The promoter has developed this project in the limits of Sy.No: 43/5, 43/30 & 238, Mysore Road, Kambipura Village, Ancephalya, Bengaluru South Byrathikane Village, K.R. Puram Hobli, Bengaluru South, Bengaluru Urban.
4. The gist of the complaint is that the complainants have booked a flat bearing no. 1735 situated on 17th floor in Tower-E in the project "BRIGADE PANORAMA" and thereafter entered into an agreement of sale dated 29th December 2017 of the respondent for a total sale consideration of Rs.71,80,010/- (Rs. Seventy one lakhs eighty thousand ten only). The complainants have paid the entire sale consideration on various dates to the respondent which has been duly acknowledged by him. The builder was required to hand over the possession of the said flat to the complainants within 30th April 2019. It is contended that they took possession of the said flat on 4/10/2018 but still the respondent has not executed sale deed in favour of them and they are paying more interest rate to the bank due to non-submission of sale deed. Therefore, the complainants have approached this forum seeking for the relief of compensation for the interest rate and registration charges to be borne by the respondent. Hence, this complaint.



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5. After registration of the complaint, in pursuance of the notice, the respondent has appeared before this Authority through its Authorized Representative and filed objections as under:
6. The respondent has denied all the allegations made against it by the complainants as false. It is contended that the complainants were decided to purchase a flat bearing no.1735 situated on the 17th floor in Tower-E in the project "BRIGADE PANORAMA" of the respondent-promoter. Accordingly, the said flat was allotted to the complainants. Subsequently, both the parties entered into an agreement of sale dated 29/12/2017 and the complainants have paid the entire sale consideration in a timely manner to the respondent. It is further submitted that at the time of registration of sale deed, the same was not accepted in the computer system of the concerned Sub-Registrar's Office, as it was showing that the said apartment No.1735 was already registered. However, due to technical error in the computer system. the complainants and respondents were informed by the officers at the Sub-Registrar's office to schedule the registration to another date.
7. Further, when the representatives of the respondent and the complainants once again visited the Sub-Registrar's office for registration of the sale deed, the computer system at the concerned Sub-Registrar's office once again refused to accept the registration of the said sale deed for the said flat No.1735. However, considering technical issues the registration of sale deed was delayed beyond expected timelines. The respondent in good faith, handed over the



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possession of the said flat to the complainants on 4/10/2018.
Hence, prayed to dismiss the complaint.

8. Further, the respondent has filed written arguments as under:

It is contended that the respondent has made all efforts in getting the sale deed registered before the jurisdictional Sub-Registrar's office but owing to the technical problems of the E-Katha, the said sale deed pertaining to the flat no.1735 could not be registered. Understanding the situation, the respondent willingly handed over the possession of the said flat to the complainants on 4/10/2018. At the time of signing the Declaration and the handover checklist, the complainants submitted a letter to the respondent on the very same date accepting the possession of the said unit without registration of the sale deed and further undertaking to comply the registration formalities within 15 days after receipt of the E-Katha. The complainants have availed a bank loan for purchasing the said unit and the interest on the said loan needs to be paid by themselves. It is the liability of the complainants to pay the charges towards stamp duty and registration charges and it cannot be passed on to the respondent or the seller.

9. In support of their claim, the complainants have produced documents such as copy of agreement of sale dated 29/12/2017.

10. The respondent in support of his defence has produced documents such as copies of the declaration and the handover check list duly



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signed by the complainants (2) email dated 13/9/2023 sent to complainants

11. Heard arguments of both the parties. This matter was heard on 7/12/2022, 4/1/2023, 3/2/2023, 17/2/2023, 17/3/2023, 5/5/2023, 26/6/2023, 11/8/2023, 4/9/2023, 29/9/2023 and on 13/10/2023.

12. 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?

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

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

FINDINGS

14. Findings on point No.1:- The complainants have approached this forum seeking for the relief of direction to the respondent to pay compensation on the interest rate and to borne the stamp duty and registration charges. .

15. The same is resisted by the respondent on the ground that there is absolutely no delay on the part of the respondent in arranging for registration of the sale deed. He has made all efforts in getting the sale deed registered before the jurisdictional Sub-Registrar's office but owing to the technical problems of the E-Katha at the Sub-Registrar's office, the sale deed pertaining to the said flat no. 1735 could not be registered. However, considering technical issues and the registration of sale deed



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was getting delayed beyond expected timelines and beyond the control of the respondent, in good faith he has handed over the possession of the said flat to the complainants on 4/10/2018. Since, that date, the complainants are residing and have been enjoying the said unit no.1735 in the project " BRIGADE PANORAMA" for the last 6 years without any issues whatsoever.

16. Herein this case, the entire claim of the complainants are based on the allegation that they are paying additional interest on their home loan as the sale deed was not executed in time. For this, defence of the respondent is that due to technical error in the computer system of jurisdictional Sub-Registrar's office, he could not execute the sale deed as agreed.

17. Undisputedly, the respondent has handed over the possession of the flat no.1735 in favour of the complainants on 4/10/2018 much before the committed date of handover i.e. by 30/4/2019 to the complainants. The respondent has procured a revised Katha for the apartment no.1735 and the same was communicated via email on 13/9/2023 to the complainants and requested them to confirm their availability for registration of the said flat. However, the complainants did not respond. Besides he has obtained occupation certificate from the competent authority on 13/6/2018. Further, after receipt of possession of the said flat, the complainants were in peaceful use and enjoyment of the same without any interruption from anyone. However, they have not produced any iota of evidence before this Authority to establish that the bank is demanding for additional interest/charges on the home loan. Delay in execution of the sale deed is not the ground for claiming direction against the respondent to bear the stamp duty



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and registration charges. It is to be noted here that the respondent is neither liable and responsible for payment of any interest on the complainants bank loan nor he can be held responsible for paying stamp duty and registration charges for registering the sale deed but owing to the technical problems of the E-katha at the concerned jurisdictional Sub-Registrar's office, the sale deed pertaining to the said flat no.1735 could not be registered. Hence, the relief sought by the complainants to pay the interest on their home loan and registration charges and stamp duty to be borne by the respondent cannot be considered by this Authority since the complainants have not furnished any copies of their bank loan statement in support of their claim.

18. Having regard to all these aspects, this Authority is of the opinion that the complaint deserves to be dismissed. Accordingly, the point raised above is answered in the Negative.

19. Findings on point no.2. In view of the above discussion, , 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/220826/0009951 is hereby dismissed.

No order as to costs.


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

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