

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 20th DAY OF NOVEMBER 2023

COMPLAINT No: CMP/ 00020/2023

COMPLAINANT..

**B.V. NARASIMHA MURTHY
NO; 248-202/2, SHRIVEN
LEGACY, BYRAPPA BLOCK
2nd MAIN, THYAGARAJANAGAR
BENGALURU URBAN-560028**

(IN PERSON)

V/s

RESPONDENTS....

**1. M/S ACE REALTY VENTURES
NO;19, PRESTIGE FALCON
TOWER, BRUNTON ROAD
BENGALURU URBAN-560025**

**(REP.BY SRI. S.T. PRASHANTHA
KUMAR, ADVOCATE
FOX MONDAL & ASSOCIATES)**

**2. GOPALAI AH
LAND OWNER
9/1, GANGOTRI, 60 FEET ROAD
S.V. LAYOUT, RMV 2ND STAGE
BENGALURU URBAN-560 094.**

**3. DEEPAK G
LAND OWNER
9/1, GANGOTRI, 60 FEET ROAD
S.V. LAYOUT, RMV 2ND STAGE
BENGALURU URBAN-560 094**

**(REP.BY K.V. MAHENDRA KUMAR
NANDAKUMAR, ADVOCATES FOR
RESPONDENTS 2 & 3)**



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JUDGEMENT

1. This complaint is filed under section 31 of Real Estate (Regulation and Development) Act, 2016 against the project "**PRESTIGE MARIGOLD PHASE-1**" developed by "**M/s ACE REALTY VENTURES**" for the relief of directions to the respondents to pay compensation and commission as per their promise.
2. This project is registered in RERA bearing registration no. PRM/KA/RERA/1250/303/PR/240122/004653.
3. The promoter has developed this project in the limits of Sy.No.14/1,14,2,15,16/1, 16/2, 17,18 and 145 of Maragondanahalli Village and Sy.Nos. 188/1, 188/4, 188/5, 188/6, 188/7, 189/1, 189/2, 189/5, 189/6, 189/7, 189/8, 190/2, 190/3, 190/4, 190/5,190/6, 190/7, 190/8, 190/9, 191/3, 191/4, 191/8, 194/1, 194/2, 194/4, 194/5, 194/6, 194/7, 195/5 and 195/6 of Bettenahalli Village, Kundana Hobli, Devanahalli, Bengaluru Rural.
4. The gist of the complaint is that the complainant is a registered real estate agent. It is contended that during the year 2018 the land is referred to as the schedule property for brevity. The schedule property was offered by its owners through him to prospective purchasers. He has conducted spot inspection and collected all necessary documentation of the schedule property and introduced the owners being Gopalaiah and his son Deepak, the land owners. They jointly proposed the schedule property for sale, acquisition, aggregation or joint venture to one Venkat and Tilak who are the

2/19

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representatives of Prestige Group(prospective buyers). The total land consists of 150 acres and the respondent has agreed to give commission amount of Rs.10,00,000/- (Rs. Ten lakhs only) per acre. After negotiation, the property got registered to Prestige. It is further contended that as agreed by the respondent, they should pay commission to him and till today he was unable to reach them and did not respond to his requests. The project "PRESTIGE MARIGOLD-PHASE-1" has to be started in the said land. Therefore, he has approached this Authority for a direction to the respondents to pay compensation/commission as agreed. Hence, this complaint.

5. After registration of the complaint, in pursuance of the notice, the respondent no.1 did appear before this Authority through its counsel and filed statement of objections as under:

The respondent no.1 has denied all the allegations made against it by the complainant as false. It is contended that the complainant has suppressed the fact that he is not an allottee nor an authorized real estate agent appointed by the respondent under definitive agreement. Further, he has not been authorized to sell, market and advertise the apartment being developed by the respondent. The present complaint has been filed by the complainant with an ulterior motive to make unlawful gains without having any case. Further, the reliefs sought by the complainant are outside the ambit and jurisdiction of the Hon'ble Authority.



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6. It is submitted that the respondent herein has not entered into any kind of definitive agreements/contracts with the complainants seeking his assistance for aggregation of lands, sale of apartments being developed in the project etc. Further, the complainant is claiming that he is an agent aggregating lands for acquisition and sale. On this ground as well as the complaint needs to be dismissed limine as the complainant is not an "allottee" of the project under the provisions of RERA Act. The reliefs sought for by the complainant do not fall within the purview of Sections 12,14,18 and 19 of the Act and the complaint cannot be said to be one under section 31 of the Act which can be entertained by this Authority. The respondent has purchased the aforesaid lands under various registered sale deeds directly from the landowners. The complaint filed by the complainant is nothing but abuse of process of law with an intention to make an unlawful gain. Hence, prayed to dismiss the complaint.
7. **Statement of objections filed by the respondent no. 2 and 3**
The statement of objections filed by the respondent no. 2 and 3 are nothing but the replica of the statement of objections filed by the respondent no.1.
8. In support of his claim, the complainant has produced documents such as (1) copy of deed of sale dated 19/7/2021 (2) copy of agreement of sale dated 22/9/2020(3) relevant documentation, communication, phone records with manuscripts and photographs on site of the project (4) copy of Cheque dated 9th September 2022 for an amount of Rs.7,50,000/- paid by respondent no.2 to the complainant.



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9. Heard both the parties. The complainant has submitted written submissions on 23/5/2023 which has been taken note of.

10. This matter was heard on 10/3/2023, 27/3/2023, 4/5/2023, 23/6/2023, 14/7/2023, 17/7/2023, 31/7/2023, 21/8/2023, 11/9/2023.

11. 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?

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

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

FINDINGS

13. Findings on point No.1:- The complainant has approached this forum seeking for the relief of directions to the respondents to pay compensation/commission. The grounds urged are that the complainant is a registered real estate agent under the provisions of the RERA Act. It is contended that it is not a common trade practice that a builder or promoter shall enter into contractual agreement with the brokers in the conduct of business. In lieu of any such contractual agreement, the entire process is based on trust between the parties. He has conducted detailed spot inspection and collected all necessary documentation of the subject property and introduced the landowners. During 2021, he was informed that the landowners and purchaser have concluded the negotiations of the schedule property without any notice or intimation to him. Hence, this complaint was filed seeking indulgence of this Authority to enquire into this matter and issue necessary



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directions to the purchasers to remit his professional fee of Rs.10.00 lakhs per acre for the admitted transaction.

14. The same is resisted by the respondents 1 to 3 on the grounds that the complainant is neither an allottee nor an authorized real estate agent appointed by the respondent under any definitive agreement under the provisions of the RERA Act. Further, he has not been authorized to sell, market and advertise the apartment being developed by the respondent. The reliefs sought for by the complainant are outside the ambit and jurisdiction of this Hon'ble Authority. The respondents herein have not entered into any kind of definitive agreements/contracts with the complainant seeking his assistance for aggregation of lands, sale of apartments being developed in the project etc. Though he may be a registered real estate agent before this Hon'ble Authority, however the ambit and scope of functionality of real estate agent under Sections 9 and 10 of the Act is limited facilitating the sale of apartment. The respondent no.1 has formulated a scheme of development of project in the said lands and is developing the project in a phased manner comprising of various blocks and has accordingly obtained necessary approvals.

15. On careful scrutiny of the entire materials placed on record, there are absolutely no records to infer as contractual agreement which is the one the complainant claims to have been entered into with respondent does not come within the purview of this Authority.

16. The complainant has produced a copy of cheque dated 9th September 2022 for Rs.7,50,000/- and payment of Rs.5,00,000/- made through RTGS which goes to show that the respondent no.2 Gopalaiah, the landowner has remitted the above payments to the complainant's bank account. Nothing



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is coming forth from the complainant's side that under what transaction the respondent no.2 has issued cheque and made RTGS bank transaction in favour of the complainant. In support of these transactions, the complainant has not produced any such documents such as contractual agreement, any contracts etc.

17. With regard to respondent no.1, the complainant has not produced any documentary evidence before this Authority to establish that there was any transaction between the complainant and the respondent no.1 agreeing to pay commission in respect of property transaction. There is no definitive contractual agreement between the complainant and the respondent no.1 seeking his assistance for aggregation of lands, market, advertise and sale of apartments, being developed by the respondent no.1 and agreeing to pay commission. Such being the case, in the absence of any such documents, the relief sought by the complainant cannot be granted by this Authority.

18. Considering all these aspects, this Authority concludes that this complaint is not maintainable. Accordingly, the point raised above is answered in the Negative.

19. **Findings on point no.2.** In view of the above discussion, I conclude that, this complaint deserves to be dismissed.

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No: **CMP/00020/2023** is hereby dismissed as not maintainable.

No order as to costs.



(H.C. Kishore Chandra)

Chairman
K-RERA

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