

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 MR. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN

DATED 23rd DAY OF NOVEMBER 2023

COMPLAINT NO. CMP/00968/2023

COMPLAINANT:

N.D. KUMARA SWAMY
FLAT NO.204
NAVARATHANA ENCLAVE
CHAMARAJAPURAM OPP
TENNIS COURT
MYSORE-570005

(IN PERSON)

V/s

RESPONDENTS...

M/s SHRI MANJUNATHA
SWAMI DEVELOPERS AND
INFRASTRUCTURES PRIVATE
LIMITED
#97, 4TH "B" CROSS
PATTON HOUSE-2
KORAMANGALA 5TH BLOCK
BENGALURU URBAN-560095

(EX-PARTE)

PROJECT NAME &

SMD AMBAVILAS

REGISTRATION NO.

**PRM/KA/RERA/1268/378
PR/191116/003030**

JUDGEMENT

1. This complaint has been filed under section 31 of the RERA Act against the project "**SMD AMBAVILAS**" developed by "**M/s SHRI MANJUNATHA SWAMI**



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

DEVELOPERS AND INFRASTRUCTURES PRIVATE LIMITED for the relief of refund of booking amount paid along with interest.

2. The promoter has developed this project in the limits of Site No.1147, CH-1, 1147/3, CH-1/A, CH-1/1, Chamarajapuaam Railway Station Road, Chamaraja Mohalla, Mysore.

3. Brief facts of the complaint are as under: The complainant herein had booked a flat bearing 3F, situated on the 3 floor in the project "SMD AMBAVILAS" of the respondent and paid an amount of Rs.1,00,000/- as advance on 22/1/2016. Thereafter, in the letter dated Nil from the respondent-promoter he was asked to remit 20% of the sale consideration on or before 28/3/2016. In response to this letter, he has further remitted an amount of Rs.4,00,000/- on 7/5/2016 to the respondent-promoter. Altogether the complainant has paid an amount of Rs.5,00,000/- which has been duly acknowledged by him. Later he came to know that there is no progress in the project. It is contended that the said flat was supposed to be handed over within 18 months from the date of booking i.e. July 2017. But respondent did not complete the project within the stipulated timeline. Hence he has requested the builder to refund the amount but there is no response from the builder. Therefore, he has approached this Authority for a direction to the respondent to refund the booking amount paid along with interest. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondent has not appeared before this Authority during the hearings held on 7/8/2023, 23/8/2023, 15/9/2023 and on 11/10/2023 but has been continuously remained absent on all the aforesaid dates of hearings and hence he has been placed as Ex-Parte. Subsequently, the respondent has not put forth his grievances before this Authority and has not taken any

Handwritten signature

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

interest to file statement of objections, producing documents if any on its behalf.

5. In support of his claim, the complainant has produced documents such payment receipts, letter dated Nil from the respondent asking him to pay 20% of sale consideration, memo of calculation.

6. In support of his defence, the respondent has not produced any documents on his behalf.

7. 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?

8. **Answer to the above points is as under:**

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

FINDINGS

9. **Findings on point no.1:** From the payment receipt furnished by the complainant, it is apparent that the complainant had booked a flat no.3F situated on the 3rd floor in the project "SMD AMBAVILAS" by paying booking amount of Rs.1,00,000/- on 22/1/2016 and Rs.4,00,000/- on 7/5/2016 altogether Rs.5,00,000/-(Rs.Five lakhs only) to the respondent which has been duly acknowledged by him. Now, he has approached this Authority seeking for refund of said booking amount on the grounds that there is no progress in the construction of the said apartment and the respondent has not materialized his promise at the time of launching the project. Due to enormous delay in completion of the project by the respondent, he has



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

requested the respondent to refund the booking amount paid along with interest. But the respondent did not respond.

10. Despite several notices served upon the respondent, he has neither appeared before this Authority nor has contested the matter by filing statement of objections, producing documents etc., on his behalf but has been continuously remained absent on all the dates of hearings. The claim of the complainant is remained unchallenged. It is apparent from the payment receipt that the complainant has paid an amount of Rs.1,00,000/- on 22/1/2016 and Rs.4,00,000/- on 7/5/2016, totalling Rs.5,00,000/- (Rs. Five lakhs only) and which has been duly acknowledged by him. However, this issue is not related to delay but the complainant seeking withdrawal of the amount due to inordinate delay in construction of the project. Therefore, it is just and necessary to direct the respondent to refund the booking amount paid along with interest. The respondent-builder has not produced any memo of calculation in spite of sufficient opportunities given to him. The complaint has filed memo of calculation dated 28/7/2023 which is determined as below:

MEMO OF CALCULATION DATED 28/7/2023

PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2 + I3) AS ON 28/7/2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
5,00,000	3,63,624	0	8,63,624

11. Having regards to all these aspects, the complainant is entitled for refund of booking amount paid along with interest. Accordingly, the point raised above is answered in the Affirmative.

19

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

12. 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/00968/2023** is hereby allowed.

1. The respondent is hereby directed to pay a sum of Rs.8,63,624/- (Rs. Eight lakhs sixty three thousand six hundred twenty four only) towards booking amount along with interest to the complainant **within 60 days** from the date of this order calculated at the rate of 9% from 22/1/2016 to 30/4/2017. Further, at the rate of SBI MCLR + 2 from 1/5/2017 till 28/7/2023.
2. The interest from 29/7/2023 shall be calculated likewise and paid to the complainant till the date of entire realization.
3. The complainant is at liberty to enforce this order in accordance with law if the respondent fails to comply with the same.

No order as to costs.


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

NOT AN OFFICIAL COPY