

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 29<sup>TH</sup> DAY OF NOVEMBER 2023**

**COMPLAINT NO.CMP/UR/210929/0008393**

**COMPLAINANT:**

GIRISH KUMAR ISHWAR  
TATUSKAR  
H.NO: 7, SHRI GANESH KRUPA  
GANGADHAR COLONY  
SULLA ROAD, SHANTINAGAR  
HUBBALLI  
DHARWAD-580023

(IN PERSON)

V/s

**RESPONDENT...**

ANAND U.HABIB  
LANDOWNER  
GULAGANNAVAR HEIGHTS  
#69, L.G.F. LAXMI  
BALAKRISHNA SQUARE  
STATION ROAD  
HUBBALLI-580020

(REP.BY BASVARAJ S  
ADVOCATE)

**PROJECT NAME**

**GULGANNAVAR HEIGHTS**

**JUDGEMENT**

1. This complainant is filed under section 31 of the RERA Act against the project "**GULAGANNAVAR HEIGHTS**" for the relief of completion of construction work and interest on delay period.



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2. This project is not registered in RERA. This Authority has issued an interim order dated 22<sup>nd</sup> November 2022 directing the respondent to register the project as required under Section 3 of the RERA Act within two week from the date of the said order.

2. The promoter has developed this project in the limits of plot bearing No.884B-16, 884B-17, 884B-18 and 884B-19 situated near Prasanna Ganapathi Temple, Ambika Nagar, Bengeri, Hubballi-580 023.

3. The gist of the complaint is that the complainant herein had entered into an agreement of sale dated 2/5/2016 towards the purchase of a residential flat bearing No. "1" situated on second floor in the project "GULAGANNAVAR HEIGHTS" developed by the respondent/promoter for a total sale consideration of Rs. 21,60,500/- (Rs. Twenty one lakhs sixty thousand five hundred only). The complainant has paid the entire sale consideration to the respondent-promoter on various dates which has been duly acknowledged by him. The complainant has also availed loan from LIC HFL towards purchase of the said flat. The respondent was required to hand over the possession of the said flat to the complainant within 16/12/2016. Thereafter, the respondent has executed a sale deed in favour of the complainant on 22/10/2021 and handed over the said flat to him on the same day after a lapse of more than 5 years. It is contended that the respondent is yet to complete the pending construction work of the said flat as agreed. Hence, he has approached this Authority for the relief of direction to the respondent to complete the construction of the said flat and to pay interest on delay period. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondent did appear before this Authority on 18/11/2022 and filed a vakalat. Thereafter neither the respondent nor its counsel has appeared before this Authority during the hearings held on 24/02/2023,

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24/3/2023, 17/4/2023, 26/5/2023, 7/7/2023, 21/7/2023 and on 7/8/2023 but has been continuously remained absent. Subsequently, neither the respondent nor his counsel put forth their grievances before this Authority and have not taken any interest to file statement of objections, producing documents if any on its behalf.

5. The complainant in support of his claim has produced documents such as (1) copy of agreement of sale dated 2/5/2015 (2) copy of sale deed dated 22/10/2021 (3) valuation certificate issued by Chartered Engineer (4) LIC Housing Finance certificate (5) LIC housing finance instalment certificate from the year 2014 to 2022.

6. The respondent in support of his claim has not produced any documents.

7. Heard arguments.

**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) Partly 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 completion of the project and to pay interest on delay period. The grounds urged is that the complainant has booked a flat bearing No."I" situated on the second floor in the project "GULAGANNAVAR HEIGHTS" of the respondent by entering into an agreement of sale on 2/5/2014. The respondent has executed a sale deed in favour of the complainant on 21/10/2021 and handed over the possession on the same day. He has obtained the occupancy certificate on 9/7/2018 from the Deputy Director, Urban Development, Hubli-Dharwar Mahanagara Palike., Hubballi.

11. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 2/5/2014. As per Clause 5 of the terms of agreement of sale, "*the possession of the property agreed to be sold shall be given to the purchaser at the time of registration of the sale deed and after obtaining the completion certificate from the concerned authority.*" The respondent has obtained completion certificate from Hubli-Dharwar Mahanagara Palike on 9/7/2018. The sale deed was executed in favour of the complainant on 22/10/2021 and the possession was handed over on the same day.

12. The agreement of sale is key instrument which binds the parties in a contractual relation so as to be properly enforced in accordance with law, it is quite necessary that it shall be free from any ambiguity and vagueness.

13. Herein this case, there is no binding between both the parties on a fixed time limit for the possession of the said flat no. I in the project



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"GULGANNAVAR HEIGHTS". A fixed time limit for the handing over possession of the said flat has also not been agreed to by the parties. A sale agreement has not been entered into by the parties as the same was supposed to be made. It is pertinent to note that the respondent has already executed sale deed in favour of the complainant on 22/10/2021 and handed over the possession. The complainant is in possession and peaceful enjoyment of the said flat. The contention of the complainant is that the respondent has not paid any interest on delay period. It is pertinent to note that since there is no binding between both the parties on a fixed time limit for the delivery of the flat, the complainant is not entitled for any interest on delay period from the respondent as the complainant has not produced any single iota of evidence to substantiate his claim.

Accordingly, the point raised above is answered as Partly Affirmative.

14. **Findings on point no.2:** In view of the above discussion, I am of the opinion that this complaint deserves to be allowed in part. 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/210929/0008393 is hereby allowed.

1. The respondent is hereby directed to complete the balance construction work if any, in respect of the flat no; "I" of the complainant in the project "GULAGANNAVAR HEITS" as agreed within 60 days from the date of this order.



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2. The Secretary, KREERA shall initiate proceedings u/s 59(1) of the Act against the respondent-promoter for violation of section 3 of the Act to register the project.
3. The complainant is at liberty to initiate action in accordance with law in case if the respondent fails to comply with the said order.

No order as to costs.

  
(H.C. KISHORE CHANDRA)  
Chairman  
K-RERA

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