

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 2ND DAY OF DECEMBER 2023

COMPLAINT NO. CMP/221117/0010359

COMPLAINANT:

NARASIMHAMURTHY L.
NO; 23, KALA NILAYA
1ST CROSS, VARASIDDI
NAGARA, ANDRAHALLI
MAIN ROAD, ANUPAMA
SCHOOL
BENGALURU URBAN-560058

(IN PERSON)

V/s

RESPONDENT...

M/S VYASTI PROJECTS
763, 1ST FLOOR, GOWRI
ARCH, 33RD "A" CROSS
JAYANAGAR 4TH BLOCK
BENGALURU URBAN-560011

(BY SUHAS GOWDA,ADVOCATE)

PROJECT NAME &

**DHATRI NAKSHATRA VYASTI
HALLMARK**

REGISTRATION NO.

**PRM/KA/RERA/1268/378
PR/201013/003631**

JUDGEMENT

1. This complaint has been filed under section 31 of the RERA Act against the project "**DHATRI NAKSHATRA VYASTI HALLMARK**" developed by "**M/s VYASTI PROJECTS**" for the relief of refund of booking amount paid along with interest.



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

2. The promoter has developed this project in the limits of Sy.Nos.181/1, 181/2, Varakodu Village, Varuna Hobli, Mysore.

3. Brief facts of the complaint are as under: The executive of M/s Vyasti Properties has approached the complainant during 2016, and informed him that they offer plots in Mysore for Rs.7.00 lakhs. The respondent has promised him that it would be delivered within 2 to 3 years and offered him EMI facility to pay the initial payment for 12 to 18 months. Thereafter, the complainant had booked two plots for himself and his brother by paying Rs.50,000/- each and started paying EMI of Rs.10,000 per month. The total sale consideration of each plot is Rs.7.00 lakhs only altogether Rs.14,00,000/- (Rs. Fourteen lakhs only). Out of which, the complainant has paid an amount of Rs.7,80,000/- (Rs. Seven lakhs eighty thousand only) on various dates which has been duly acknowledged by him. The complainant has agreed and continued to pay the EMI for 36 months. It is contended that after 36 months, the respondent asked him to stop paying EMI and informed that they are going to start registration of plots shortly. However, they prolonged the registration. The agent who had conversation and the managers left the organization and started avoiding his phone calls for more than 2 years. Whenever they get in touch with any of the property owners and executives, they used to give reasons that project is getting delayed due to some legal issues. He has waited for almost 6 years and when they spoke to the owner of the project in the month of January 2022, they informed that the project is stopped due to change of government policy. It is further contended that when they visited the project site, the project was going on and later they came to know from the localities that they have already sold some of the plots. Later, they were offered to buy some other plots which they were developing in other projects which is out of their budget. They agreed for the cancellation process and sent out an email communication dated 22/4/2022 as agreed over phone. However, they have not received their

1/3/22

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

approached this Authority for the relief of direction to the respondent to refund the amount paid along with interest. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondent did appear before this Authority through its counsel and filed Vakalat. Thereafter, during the hearings held on 8/6/2023, 6/7/2023, 11/8/2023 and on 4/9/2023 neither the respondent nor his counsel did appear before this Authority and has been continuously remained absent on all the aforesaid dates of hearings. Subsequently, the respondent has not put forth his grievances before this Authority and has not taken any 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 as (1) Booking amount paid receipts (2) Estimation (3) Bank statements from PNB and Canara Bank (4) copy of email dated 22/4/2022 (5) copy of email dated 18/4/2022 regarding cancellation of booked of plots (6) copy of EMI paid receipts (7) memo of calculation

6. On the above averments, the following points would arise for my consideration.

7. 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:



 3

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

FINDINGS

9. Findings on point no.1: From the payment receipts furnished by the complainant, it is apparent that the complainant had booked two plots in the project "DHATRI NAKSHTRA VYASTI HALLMARK" by paying booking amount of Rs.50,000/- each for two plots (Rs.Fifty thousand only) on 6/4/2016. Now, he has approached this Authority seeking for refund of said booking amount on the grounds that the respondents the project is getting delayed due to some legal issues. Besides, even after waiting for 6 years, they were informed that the project is stopped due to some government policy. Later they came to know that they have already sold some of the plots and they offered them to buy other plots which they are developing in other projects which is out of their budget. Therefore, they have called their plots and requested them to refund the amount paid along with interest. However, they have not received refund of amount paid to the respondent till date.

10. Despite several notices served upon the respondent, he did appear before this authority through its counsel and filed Vakalat. Thereafter, neither the respondent nor its learned counsel did appear before this Authority but remained continuously absent during the hearings held on 8/6/2023, 6/7/2023, 11/8/2023 and on 4/9/2023. Hence, they have not contested the matter by filing statement of objections, producing documents etc., on its behalf. The claim of the complainant is remained unchallenged. It is apparent from the payment receipt that the complainant has paid an amount of Rs.7,80,000/- (Rs. Seven lakhs eighty thousand only) on various dates to the respondent which has been duly acknowledged by him. Since the project is getting delayed due to legal issues the respondent-promoter has prolonged the registration of their plots. Besides, they were offered to buy some other plots which they are developing in other projects which is out of their budget.

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

Therefore, the complainant has decided to exit from the project and requested for refund of booking paid along with interest.

11. As per Section 18 of RERA Act, in case the allottee wishes to withdraw from the project, the promoter is liable without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.

14. Therefore, as per section 18 of the Act, the promoter is liable to refund the amount received along with interest.

12. On going through the materials placed on record, it is apparent that the respondent has not handed over the possession of the plots to the complainant despite the complainant has paid the substantial sale consideration. Having accepted the said amount and failure to keep up promise to handover possession of the plots and register the sale deed, certainly entitles the complaint herein for the relief of refund of booking amount paid along with interest. The complainant has filed memo of calculation dated 3/8/2023 claiming an amount of Rs.12,25,600/- (Rs. Twelve lakhs twenty five thousand six hundred only) towards refund of booking amount paid along with interest. The respondent-builder has not produced any memo of calculation in spite of sufficient opportunities given to him.

13. Therefore, it is incumbent upon the respondent to refund the booking amount paid along with interest which is determined as under:

Asb

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

MEMO OF CALCULATION DATED 03/03/2023

PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2 + I3) AS ON 03/03/2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
7,80,000	4,45,600	0	12,25,600

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

15. **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/221117/0010359** is hereby allowed.

1. The respondent is hereby directed to pay a sum of Rs.12,25,600/- (Rs. Twelve lakhs twenty five thousand six hundred only) towards refund of booking amount paid along with interest to the complainant **within 60 days** from the date of this order calculated at the rate of 9% from 6/4/2016 to 30/4/2017. Further, at the rate of SBI MCLR + 2 from 1/5/2017 till 03/03/2023.
2. The interest from 4/3/2023 shall be calculated likewise and paid to the complainant till the date of entire realization.

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

3. 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

NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY