

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 5th DAY OF DECEMBER 2023

COMPLAINT NO. CMP/210720/0008147

COMPLAINANT:

AVINASH RAO
NO: 46, BLUJAY MALGUDI
VILAS, RK GARDEN
VAJARAHALLI
OFF KANAKAPURA ROAD
BENGALURU URBAN-560062

(IN PERSON)

V/s

RESPONDENT...

M/s CHAMUNDI BUILDERS
NO: 161/F, 6TH MAIN ROAD
2ND CROSS, J.P. NAGAR
3RD PHASE
BENGALURU URBAN-560078

(ABSENT)

PROJECT NAME &

CHAMUNDI AMBERWOODS

REGISTRATION NO.

**PRM/KA/RERA/1251/310
PR/180120/001486**

JUDGEMENT

1. This complaint has been filed under section 31 of the RERA Act against the project "CHAMUNDI AMBERWOODS" developed by "M/s CHAMUNDI BUILDERS" for the relief of refund of booking amount paid along with interest.

6/12/23

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3. Brief facts of the complaint are as under: The complainant herein had booked property in the project "CHAMUNDI AMBERWOODS" of the respondent by paying an amount of Rs.2,00,000/- on 12/2/2019 which has been honoured by the HDFC Bank on 14/2/2019. It is contended that as per the assurance of the respondent, the property would be ready for possession by April 2019. Upon finding out that the builder is lying on giving possession of the property, he withdrew from signing the agreement. The builder has harassed him mentally by giving false assurances. Further, he has taken the video as evidence that the property is still not completed as claimed by the builder in the RERA Certificate. Therefore, the complainant has approached this forum for the relief of direction to the respondent to refund the booking amount paid along with interest. Hence, this complaint.

5. After registration of the complaint, in pursuance of the notice, the respondent has not appeared before this Authority during the hearings held on 18/10/2022, 4/11/2022, 21/11/2022, 13/12/2022, 20/12/2022, 26/12/2022, 27/01/2023, 23/2/2023, 27/3/2023, 26/4/2023, 5/5/2023, 12/6/2023, 11/8/2023 and 8/9/2023 has been remained continuously 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 defence. .

6. In support of his claim, the complainant has produced documents such as (1) payment receipt (2) booking form (3) memo of calculation

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



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

9. 1) Whether the complainant is entitled for the relief claimed?

2) What order?

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

1) In the Affirmative

2) As per final order for the following:

FINDINGS

11. Findings on point no.1: From the payment receipt furnished by the complainant, it is apparent that the complainant had booked the property in the project "**CHAMUNDI AMBERWOODS**" by paying booking amount of Rs.2,00,000/- (Rs.Two lakhs only) dated 12/2/2019. Now, he has approached this Authority seeking for refund of said booking amount on the grounds that though the respondent has assured him that the property would be ready for possession by April 2019 but the builder is lying on giving possession of the property. He has taken a video as evidence that the property is still not completed. Having lost confidence with the builder, he has decided to exit from the project and approached this Authority for the relief of direction to the respondent to refund the booking amount paid along with interest.

12. 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 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.2,00,000/- on 12/2/2019 and which has been duly acknowledged by the respondent. However, this issue is not related to delay but the complainant seeking withdrawal of the amount since the builder has not completed the property



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as claimed by him in RERA Certificate. 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 complainant has filed memo of calculation dated 5/12/2023 which determined as below:

MEMO OF CALCULATION DATED 5/12/2023

PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2 + I3) AS ON 5/12/2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
2,00,000	1,03,494	0	3,03,494

13. 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.

14. 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/210720/0008147** is hereby allowed.

1. The respondent is hereby directed to pay a sum of Rs.3,03,494 (Rs. Three lakhs three thousand four hundred ninety 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 SBI MCLR + 2 from 12/2/2019 till 5/12/2023.

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2. The interest due from 6/12/2023 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

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