

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 FULL BENCH

PRESENT:

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

SMT. NEELMANI N RAJU, HON'BLE MEMBER

SHRI. GURIJALA RAVINDRANADHA REDDY, HON'BLE MEMBER

COMPLAINT NO.: CMP/UR/220119/0008830

DATED THIS 1ST DAY OF DECEMBER, 2023

COMPLAINANT.....

MANOHAR FRANCIS XAVIER ROZARIO,
B2-1301, Golden Palms Apartment,
K Narayanapura, Kothanur,
Bengaluru - 560077.

(In person)

V/S

RESPONDENTS.....

- 1. VALERIAN DAYANAND,**
- 2. JYOTHI VALERIAN,**
- 3. ROBIN BILLYGRAHAM VALERIAN,**
Zoe India Properties Private Limited,
No.50/8A, 2nd Floor,
Gubbi Cross, Hennur, Kothnur,
Bagalur Main Road,
Bengaluru - 560077.

(In person)

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1. This complaint is filed under section 31 of the RERA Act against the project "Zoe Residency" developed by "Zoe India Properties Pvt. Ltd.," on No.6/1, Metta Plaza, 2nd Floor, Kammanahalli Main Road, Bengaluru - 560043 for the relief of execution of sale deed.

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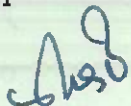
Karnataka Real Estate Regulatory Authority,

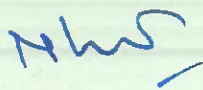
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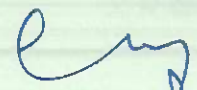
2. This project is registered under RERA bearing Registration No. PRM/KA/RERA/1265/347/PR/291022/005379 valid till 06/09/2024.

Brief facts of the complaint are as under:-

3. During the month of September 2017 the respondent had approached him and offered to sell plots in his project named Zoe Residency. The respondent said that he was in dispartate need of money for matters related to the said project and said that if he purchases one or two plots of 1200 sq feet each it would cost Rs.5,00,000/- (Rupees Five Lakhs Only) for each plot and if he purchases more than 10 plots he would give the same at a special discounted rate of Rs.3,00,000/- (Rupees Three Lakhs Only) per plot provided he makes full payment towards the plots. Hence, initially he had purchased only two plots. Later upon a regular calls and offer of a special discounted rate he agreed to buy additional 13 plots. Accordingly, during 2017 and 2018 he had paid a total sum of Rs.49,00,000/- (Rupees Forty Nine Lakh Only) to the respondent. Accordingly, they have entered into an agreement of sale on 30/08/2018.
4. Thereafter, whenever the complainant had approached the respondent about registering the plots, he started saying that he has not received some approvals and that he is waiting for approvals from town planning and RERA. Recently he came to know that the respondent has been registering plots to others. Hence, this complaint.
5. After registration of the complaint, in pursuance of the notice, the respondents have appeared before the Authority and filed statement of objections as under:-
6. They have denied the entire allegations made against them by the complainant as false. They contend that, the sites under two agreements to sell are dated 30/08/2018 are site No.282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 327, 341, 350. As per the said agreements the complainant has to wait till conversions and approvals for the said site







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formation in the survey numbers mentioned in the agreements to sell. Now only approvals and conversion received for site No.1 to site No.276 comprised in Sy. No. 76, 77 and 94. Remaining survey numbers in which the sites No. 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 327, 341, 350 are comprised to receive the conversion and approvals. This complaint is premature and hence prayed to dismiss the complaint.

7. In support of his claim, the complainant has produced in all 6 documents such as copy of 2 Agreement of sell dated 30/08/2018, encumbrance certificate, supplemental agreement to the joint development agreement dated 07/05/2022, recent sale deeds executed by promoter to other buyers in the past 2 months, copy of consumer complaint No.210/2022 withdrawn by the complainant and statement of accounts.
8. In support of their defence, the respondents have produced in all 2 documents such as copy of Sanctioned plan and RERA Registration certificate.
9. Hearings were conducted on 08/12/2021, 17/03/2022, 26/04/2022, 19/05/2022, 15/11/2022, 28/03/2023, 19/04/2023, 06/06/2023, 26/07/2023, 05/09/2023, 20/09/2023 and finally on 10/10/2023.
10. Heard arguments.
11. **On the above averments, the following points would arise for our consideration:-**
 1. Whether the complainant is entitled for the relief claimed?
 2. What order?
12. **Our findings on the above points is as under:-**
 1. In the Negative.
 2. As per final order for the following







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REASONS

13. **Our finding on point No. 1:-** The grievance of the complainant is that, the respondent who was in disparate need of money had approached him and offered to sell plots in his project Zoe Residency. The respondent had also offered him special discount rate towards purchase of plots. Hence, he had purchased totally 15 plots from the respondent and had paid a total sum of Rs.49,00,000/- (Rupees Forty Nine Lakhs Only) to the respondent. In this regard, there is an agreement of sale dated 30/08/2018. Now, the respondent is avoiding registering the plots in favour of complainant.
14. Same is resisted by the respondent on the grounds that, he has not yet obtained sanctioned plan approvals for the formation of layout with regard to which they have entered into an agreement of sale.
15. From the materials available on record, it is apparent that both the parties have entered into 2 Agreements of sale both dated 30/08/2018 towards purchase of 15 plots. As per the terms and conditions of both these agreements, the respondent was supposed to execute the sale deeds of said plots in favour of complainant within 30 days from 30/08/2018 or immediately after obtaining the residential conversion order from the concerned authority, sanctioned layout plan as well as obtaining all other required permissions / sanctions / approvals from the concerned Authorities.
16. The recital of the aforesaid agreements goes to show that said plots pertain to Sy. No. 76, 77 and 98 of Byrahalli Village. On going through the sanctioned plan produced by the respondent, it clearly goes to show that, the sites involved in the said agreement are not mentioned in the said sanctioned plan. From this it is clear that, respondent has not yet obtained sanctioned plan in respect of site related to the complainant.
17. The complainant is entirely setting up his claim only on the basis of said agreements of sale dated 30/08/2018. Therefore, the respondent has not yet obtained any approval / sanction / permission for formation of residential

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layout wherein the said plots are located. Hence, this complaint itself is premature. Having regard to all these aspects, we are of the opinion that the complainant is not entitled for the relief claimed. Accordingly, the point raised above is answered in the Negative.

18. **Our findings on point No. 2:-** In view of the above discussion, the complaint deserves to be dismissed. Hence, we proceed to pass the following order.

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/220119/0008830 is hereby dismissed.

No order as to costs.

(G.R. REDDY)
Member
K-RERA

(NEELMANI N RAJU)
Member
K-RERA

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

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ORDER

(M. C. KISHORE CHAUDHARI)

K. RERA

(M. R. REDDY)

Member

K. RERA

(M. K. RAJU)

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