

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 BEFORE THE AUTHORITY

Dated 14th December 2023

Present

Hon'ble Chairman Shri. H.C. Kishore Chandra

Hon'ble Member Smt. Neelmani N Raju

Hon'ble Member Shri. G.R.Reddy

CMP/220524/0009510

COMPLAINANTS.....

1. Nitin Agarwal
2. Avinash Agarwal
No.84, 3rd Cross,
Lavelle Road, Bengaluru,
Bengaluru Urban -560001.
(Prashanth. M.V, Advocate)

V/S

RESPONDENT.....

Antevorta Developers Private Limited
514 Dalamal Towers, Nariman Point
Bengaluru Urban – 400021.
(S.C. Venkatesh, Advocate)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "Glen classic" developed by "Antevorta Developers Private Limited" for the relief of refund with interest.
2. This project has been registered under RERA vide registration No.PRM/KA/RERA/1251/309/PR/171016/000958.



1 of 7





ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ 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

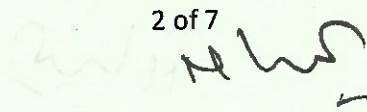
3. This project is situated at Kodigehalli Extension Municipal Ward No 15 Bytarayanapura City, Municipal Council, Bengaluru North , Bengaluru Urban.

Brief facts of the complaint are as under:-

4. The complainants have booked a flat bearing No.C1401 in the project 'Glen Classic' of respondent by entering into registered agreement of sale dated 20/04/2019. The respondent had agreed to complete the project on or before December 2020 and agreed to handover the possession by executing the sale deed after obtaining the occupancy certificate. The complainants have paid sale consideration to the respondent as per agreement of sale which is evident from the mail sent by the respondent dated 10/02/2022. In the same mail the respondent had asked the complainants to give the desired date for registration of sale deed as 15th, 19th and 24th of February 2022 and 3rd, 10th, 19 and 24th of March 2022 as their convenient date for the said purpose. Hence, the complainants visited the spot before giving their consent for registration process and found that the said project is incomplete and proposed development of the apartment was of highly substandard quality as compared to the mock up apartment shown at the time of booking. The quality of doors, windows, bathroom tiles, fittings, etc. were of second quality and not to the standard as shown in the mock up flat. The same was intimated to the respondent through mail date 18/04/2022 and informed that they are not interested in taking the possession. Hence, the complainants have decided to cancel the proposal to purchase the said flat. The respondent replied that he is ready to attend if any snags. When the complainants have refused for the same he said that he is going to deduct cancellation charges, taxes, etc. As per agreement of sale the



2 of 7





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

respondent can deduct 10% of booking amount and not more than that. Hence, this complaint.

5. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and filed statement of objection as under.
6. The respondent denies the entire allegations made against them by the complainants as false. He contends that he has completed the construction of the apartment well within the time line agreed with the complainants and offered them to take possession after paying the balance sale consideration. But the complainants without paying the balance sale consideration and taking possession voluntarily approached the respondent seeking for cancellation of purchase of said flat. This complaint is filed 24/05/2022 after lapse of about 18 months of receipt of occupancy certificate for the said project and after receipt of intimation of the same from the respondent. There are no any issues in the said apartment and he had already obtained occupancy certificate for the said project. In fact many of the customers have paid the entire sale consideration and got the sale deeds executed in their favour and also they have started to do the interior works and more than 200 families have moved in the said project without raising any issues.
7. Further, he contends that the complainants have made delay in making payments. All the materials used for the construction of the said project is in accordance with the terms and conditions lay down in the agreement of sale, the brand used for sanitary fitments is a renowned brand and entire fitments and interiors were done as per agreement of sale. Nowhere the respondent had agreed to provide the

168

168

168

ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ 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

specifications as shown in the mock up flat. The mock up flat was constructed only for the purpose of demo.

8. Further, he contends that this project was completed in November 2020 and no single case is filed with regard to quality of materials. He has used same materials for all the flats to maintain the common design, look, standards and uniformity. Their team has attended the quality issues of complainants and got rectified the said snags. The complainants sent a mail dated 20/04/2022 mentioning that they wanted to cancel the contract and to know about cancellation charges. The respondent sent the workings of the applicable cancellation charges on 30/05/2022 as per agreement to them. Hence, prayed to dismiss the complaint.
9. In support of his claim, the complainant has produced/uploaded the documents such as the copy of agreement of sale, project plan and judgement of Maharashtra REAT in Appeal No.AT006000000052611.
10. In support of his defense respondent has produced/uploaded the documents such as the copy of agreement of sale dated 20/04/2019, occupancy certificate dated 10/11/2020, pre-intimation final notice dated 30/11/2020, email conversations and judgement of Hon'ble Supreme court in Appeal No.5785/2019.
11. This matter was heard on 27/10/2022, 13/12/2022, 18/01/2023, 21/02/2023 and finally on 14/03/2023.
12. Heard arguments.
13. **Based on the above averments, the following points would arise for our consideration:-**

1) Whether the complainants are entitled for the relief claimed?

2) What order?

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

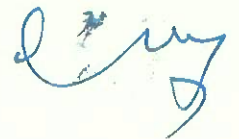
14. Our findings on the above points are as under:-

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

FINDINGS

15. **Our findings on point No. 1:-**The complainants have approached this forum seeking for the relief of refund with interest. The grounds urged are that the complainants have booked an flat bearing No.C-1401 in the project 'Glen classic' of the respondent by entering into an agreement of sale dated 20/04/2019. As per the said agreement the respondent was supposed to complete the project and to handover the said flat to the complainants on or before December 2020 by executing the sale deed after obtaining the occupancy certificate. When the respondent had asked the complainants to give their desired date for registration of sale deed, they visited the spot before giving consent and found that said project is incomplete and the quality of doors windows, bathroom tiles fittings, etc, were of second quality. Hence, they have intimated the same to the respondent through mail dated 18/04/2022 and the respondent had replied that he is ready to attend if any snags. Further, the said apartment is of highly sub standard quality as compared to the mock up apartment shown at the time of booking.

16. On the other hand the contention of the respondent is that he has completed the project well within the time. There are no any issues in the said project and he had already obtained occupancy certificate. Nowhere the respondent had agreed to provide the specifications as shown in the mock up flat and the mock up flat was constructed only for the purpose of demo.



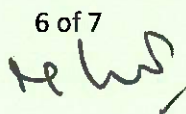
ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

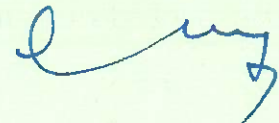
Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

17. Looking to the averments of agreement, parties herein have entered into an agreement of sale on 20/04/2019. The agreement of sale is a 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. As per the terms of construction agreement, the respondent was supposed to handover the possession of said flat to the complainants on 31-12-2020.
18. From the materials placed before this Authority, it is apparent that the respondent had obtained occupancy certificate on 10/11/2020 and given pre intimation notice dated 30/11/2020 calling upon the complainants to offer their desired date for registration of sale deed. When the complainants have raised queries about the snags in their flat through mail dated 18/04/2022, the respondent had replied that he is ready to attend any snags. Further, the respondent has completed the project well within the specified time and obtained occupancy certificate accordingly. The respondent had nowhere agreed to provide the specifications as shown in the mock up flat. Therefore, the respondent is not compelled to provide flats as per mock up flat.
19. The complainants have not produced a single iota of evidence before this Authority to establish that the quality of doors, windows, bathroom tiles, fittings, etc of said flat were of second quality.
20. Having regard to all these aspects, this Authority is of the opinion that the complainants are not entitled for the relief claimed. Accordingly, the point raised above is answered in the Negative.

Sum and substance of the case is as under.



6 of 7




ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ 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

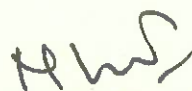
Date of agreement of sale	20-04-2019
Date of construction agreement	-
Sale consideration	Rs.62,85,773/-(Sixty two lakh eighty five thousand seven hundred seventy three).
Amount paid	Rs.61,42,468/-(Sixty one lakh forty two thousand four hundred sixty eight).
Promised date of possession as per AOS	31-12-2020
Date of sale deed	-
Date of occupancy certificate	10/11/2020
Whether the possession has been handed over	No
Prayer	Refund with interest

21. **Our findings to point No.2:-** In view of the above discussion, the complaint deserves to be dismissed. Accordingly, we 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/220524/0009510** is hereby dismissed.

No order as to costs.


(Neelmani N Raju)

Member
K-RERA


(G.R.Reddy)

Member
K-RERA


(H.C.Kishore Chandra)

Chairman
K-RERA

NOT AN OFFICIAL COPY