

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 26th DAY OF DECEMBER 2023

Complaint No. CMP/200207/004848

COMPLAINANT:

CHANDAN M.S.
No: 134, Nanjundeshwara
Nilaya, near Gowramma
Temple, Pete Street
Malavalli
MANDYA-571430

(IN PERSON)

V/s

RESPONDENTS

1. B.S. LOKESHWAR
Director
Yashaswini House Building
Co-operative Society
Limited(R)
#43, Devegowda Circle
1st Cross, Bannur Ring Road
MYSORE-570012
2. DEVARAJU B.L.
Yashaswini House Building
Co-operative Society
Limited(R)
43, Devegowda Circle
1st Cross, Bannur Ring Road
MYSORE-570012

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3. SATHEESH R

Secretary

Yashaswini House Building

Co-operative Society

Limited(R)

43, Devegowda Circle

1st Cross, Bannur Ring Road

MYSORE-570012

(ABSENT)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act, against the project '**DOLLARS COLONY - 1ST PHASE**' developed by "**M/s YASHASWINI HOUSING BUILDING CO-OPERATIVE SOCIETY LIMITED(R)**" for the relief of direction to the builder to allot a plot.

2. This project is not registered in RERA. This Authority has passed an interim order dated 26th Day of May 2023 directing the respondents to register the project as required under section 3 of the RERA Act within two weeks from the date of the said order. But the respondents failed to do so.

3. The respondent has developed this project in the limits of Hanchya Grama, Bannur Ring Road near Devegowda Circle, Mysore-570010.

4. The brief facts of the complaint are as under:

5. The complainant is a member of Yashaswini House Building Co-operative Society Limited (R) bearing membership No: 63/5. The

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complainant has booked a plot in the project " Dollors Colony – 1st Phase" of the respondent. He has paid an amount of Rs.1,25,000/- on 12/07/2012, Rs.30/9/2012 and Rs.1,25,000/- on 14.4.2013, altogether an amount of Rs.3,75,000/- (Rs. Three lakhs seventy five thousand only) out of total sale consideration of Rs.6,96,000/- which has been duly acknowledged by the respondent. The respondent-promoter is yet to allot a plot to the complainant. It is contended that from 2012 till date the society President, Directors and Secretaries have collected advance amount of Rs. 80 crores with more than 1200 people of the same project. All the collected amount is being misused by President, Directors, Secretaries and authorized person. Presently, all the board of directors, secretary have been disqualified by the Department of Registrar of Co-operative Societies, Karnataka and appointed Special Officer for further proceedings. Accordingly, Sri. Vijaya Kumar, Deputy Registrar has been appointed as Special Officer and Mr. Srikanth has been appointed as Executive Officer of the Yeshaswini Gruha Nirmana Sahakara Sangha Limited(R). The complainant has approached this forum for the relief of direction to the respondent-promoter to allot plot/site measuring 30 X 40 sft in the project "Dollars Colony- 1st Phase". Hence, this complaint.

6. After registration of the complaint, in pursuance of the notice, the respondents have neither appeared before this Authority during the hearings held on 30/6/2022, 2/07/2022, 1/8/2022, 26/9/2022, 17/10/2022 nor contested the matter by filing statement of objections, producing documents if any on their defence but continuously remained absent on the aforesaid dates of hearings.



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7. In support of his claim, the complainant has produced documents such as payment receipts, pamphlets of the society

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

1. Whether the complainant is entitled to the relief claimed?

2. What order?

9. Findings on the above points are as under:

1. In the Negative

2. As per final order for the following:

FINDINGS

10. **Findings on point no.1**: The grievance of the complainant is that the respondent did not hand over the possession of the plot despite he has paid substantial sale consideration of Rs.3,75,000/- to the respondent. It is contended that President, Directors, Secretaries and Authorised person of the society have collected advance amount of 80 crores from more than 1200 customers for the same project "Dollars Colony 1st Phase" but still they have not allotted any plot to any of the members and that the amount collected being misused by the office bearers of the said society. Despite the enquiry having been initiated by the Registrar under section 64 of the Co-operative Societies Act, 1959, pending since 2018, the same has not been concluded and completed so far. Though the petitioner has submitted repeated representations, they have not taken any steps pursuant to the petitioner's representations.



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11. Though several notices have been served upon the respondent-promoter, neither their counsel appeared before this Authority nor contested the matter by filing statement of objections, producing documents etc., on their behalf and have been continuously remained absent on all the dates of hearings. Hence, the claim of the complainant is remained unchallenged. It is apparent from the payment receipts that the complainant has paid an amount of Rs.3,75,000/- (Rs. Three lakhs seventy five thousand only) which has been duly acknowledged by the respondent-promoter.

12. On a perusal of the documents filed and oral submissions made before the Authority, it is apparent that the Department of Registrar-Cooperative Society have disqualified all Board of Directors, Secretary of Yashaswini Gruha Nirmana Sahakara Sangha Niyamitha (R) and appointed Vijayakumar, Deputy Registrar, as Special Officer and Srikanth as Chief Executive Officer on behalf of Yashaswini Gruha Nirmana Sahakara Sangha Niyamitha (R) for further proceedings.

13. It is pertinent to note that the complainant and 18 others have filed Writ Petition No: 7534/2022(CS-RES) praying for direction to Respondents-1 and 2 to take up the issue of mis-appropriation, misuse, diverting and laundering of the funds of the Society by the persons involved in the affairs of the Society and to render proper justice to the petitioner and other members of the society. The Hon'ble High Court of Karnataka in its order dated 3rd August 2022, it is held as under:

"The material on record discloses that the enquiry under Section 64 of the said Act of 1959 has been initiated in the year 2018 and the same has not been completed so far. So also, respondent Nos. 1 to 7 and 9 have

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not responded to the representations submitted by the petitioner. Under these circumstances, without expressing any opinion on the merits/demerits of the rival contentions, I deem it just and appropriate to direct the concerned respondent Nos.1 to 7 and 9 to complete the enquiry initiated under Section 64 of the said Act of 1959 against respondent No.8 as expeditiously as possible and within a period of four months from the date of receipt of copy of this order. So also, the concerned respondent Nos.1 to 7 and 9 are also directed to address the grievances of the petitioners and take appropriate decisions/pass appropriate orders on representations submitted by the petitioners, in accordance with law, as expeditiously as possible and preferably within a period of four months from the date of receipt of a certified copy of this order”

14. Under such circumstances, in the light of the above observations made by the Hon'ble High Court of Karnataka in its judgement dated 3.8.2022, it would be just and proper to close these proceedings for time being with a liberty to the complainant to come up with fresh complaint once the enquiry initiated by the Registrar of Co-operative Societies under section 64 of the Co-operative Societies Act, 1959 completed as expeditiously as possible within four months from the date of order passed by the Hon'ble High Court of Karnataka. For these reasons, it has to be concluded that the complainant is not entitled for any relief from this Authority at this stage. Accordingly, the point raised above is answered in the Negative.

15. **Findings on point no.2:** In view of the above discussion, the complaint deserves to be disposed of with following observations. Accordingly, I proceed to pass the following:



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ORDER

In exercise of the powers conferred under section 31 of the Real Estate (Regulation and Development) Act, 2016 the complaint bearing no. CMP/200207/0004848 is hereby disposed of with a liberty to the complainant to file a fresh complaint for the same relief after the outcome of the enquiry directed by the Hon'ble High Court of Karnataka.

2. The Secretary, KRERA to initiate penalty proceedings u/s 59(1) of the Act against the respondent for violation of Section 3 of the Act.

No order as to costs.


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

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