

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/220817/0009902

COMPLAINANT....

**BHOGARAJU SUBRAHMANYAM
FLAT NO. 105, ASR OCTAVE
CHIKKANAYAKANAHALLI
VILLAGE OFF SARJAPUR ROAD
BENGALURU URBAN-560035**

(IN PERSON)

V/S

RESPONDENT.....

**M/S ASR CONSTRUCTIONS
#11/7 & 11/9
CHIKKANAYAKANAHALLI
OFF SARJAPURA ROAD
BENGALURU URBAN-560035**

**(REP BY M. NAVEEN KUMAR
ADVOCATE)**

JUDGEMENT

1. This complaint is filed under section 31 of RERA Act against the project "**ASR OCTAVE**" developed by "**M/s ASR CONSTRUCTIONS**" for the relief of direction to the respondent for completion of pending works and to provide occupation certificate.



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2. This project is registered in RERA bearing registration no. PRM/KA/RERA/1251/446/PR/180130/002203.
3. The promoter has developed this project in Sy.No. 11/7 & 11/9(Old No. 11/4) situated at Chikkanayakanahalli Village, Varthur Hobli, Bengaluru East Taluk.
4. The gist of the complaint is that the complainant has booked a flat bearing No. 105 on the ground floor, in the project " ASR OCTAVE") with the respondent for a total sale consideration of Rs.54,00,000/- (Rs. Fifty four lakhs only). The complainant has paid an amount of Rs.10,00,000/- on 11/10/2018, Rs.5,00,000/- on 16/11/2018, Rs.10,00,000/- on 17/11/2018, Rs.12,00,000/- on 20/11/2018, Rs.7,00,000/- on 21/11/2018, Rs.4,00,000/- on 28/11/2018, Rs.2,00,000/- on 18/12/2018, Rs.2,00,000/- on 30/4/2019 altogether Rs.52,00,000/- (Rs. Fifty two lakhs only) to the respondent as per the memo of calculation submitted by the complainant on 28/11/2022. Thereafter the respondent has executed a sale deed in favour of the complainant on 31/01/2019 and handed over the possession. It is contended that the following amenities are yet to be provided (1) front compound wall and front gate (2) STP work is incomplete (3) no individual power supply only one single power supply is provided (4) lift is not installed (5) current wiring is completely open (6) generator is not provided (7) kids play area is not shown and no play area (8) Pathway around the apartment building is incomplete (9) occupancy certificate not given (10) Katha is not allocated (11) no water source provided. In addition to the above

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pending works, it has come to his notice that the builder has taken a loan from India Bulls Private Limited against his flat. Without disclosing those details, he has sold the flat to him. Therefore, the complainant has approached this forum for the relief of direction to the respondent to refund his amount or completion of pending works and to provide him occupation certificate. Hence, this complaint.

5. After registration of the case, in pursuance of notice, the respondent has appeared before this Authority and filed Vakalat. Subsequently, the respondent has failed to put forth his grievances and has not taken any interest to file statement of objections, producing documents if any on his defence.
6. The complainant, in support of claim has produced documents such as (1) copy of sale deed dated 31/1/2019 (2) copy of letter from ASR constructions to repay the loan amount taken before the registration from bank (3) documents from India bulls asset reconstruction for the flat no.105, ASR Octave (4) photos of the ASR Octave building
7. The respondent in support of his defence, has not furnished any documents.
8. Heard the complainant.
9. This matter was heard on 10/11/2022, 29/11/2022, 19/12/2022, 30/01/2023, 22/2/2023, 23/3/2023, 10/4/2023, 24/4/2023, 5/5/2023, 26/6/2023, 15/9/2023 and on 22/09/2023.

Ab

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10. **On the above averments, the following points would arise for my consideration:-**

1. Whether the complainant is entitled for the relief claimed?
2. What order?

11. **Answer to the above points are as under:-**

1. Partly Affirmative.
2. As per final order for the following

FINDINGS

12. Findings on point No.1. The complainant has approached this forum for a direction to the respondent to refund of his amount paid or to complete all the pending works. It is urged that the following amenities such as providing water source, STP(Drain Water Disbursement) is incomplete, lift is not installed, individual power supply and occupancy certificate has not been provided. The respondent/builder has taken loan from the Indiabulls against his flat No.105 and without disclosing those details he had sold this flat to him. Since respondent is not paying the loan amount, Indiabulls visiting his flat and sticking notices to his flat.

13. Undisputedly, the complainant had booked a flat no. 105 in the project "ASR OCTAVE" of the respondent for a total sale consideration of Rs. 54,00,000 -(Rs. Fifty four lakhs only) and has paid an amount of Rs.52,00,000/- (Rs. Fifty two lakhs only)out of the total sale consideration to the respondent which has been duly acknowledged by

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him. The respondent has executed a sale deed in favour of the complainant on 27/1/2022.

14. During the proceedings held on 26/6/2023, this Authority has ordered to send a team of engineers of RERA to inspect the spot. As per the directions of the Authority, engineering team K-RERA conducted the spot inspection on 14/7/2023 and submitted their report. The inspection report reveals that the machineries and equipment's have not been installed in the specified lift cell, STP has not been provided in the project premises, individual BESCOM meters yet to be installed and transformers to be provided, organic and garbage chambers to be provided etc.

15. On going through the inspection report, it is to be noted that as far as issues of completion of amenities are concerned, the respondent has to complete the project and provide all amenities. Further, the respondent has to resolve all the issues with regard to construction, seepage, water leakage, lift, STP, individual meters, organic and garbage chambers. In addition the above pending works, it is apparent from records that the respondent has availed loan from Indiabulls Private Limited against flat.no.105 belonging to the complainant.

15. During the proceedings held on 5/5/2023 the complainant has sought for refund. Herein in this case, the respondent has already executed a sale deed in favour of the complainant on 31/1/2019 and the complainant is in occupation and enjoyment of the property. In this regard the respondent has undertaken in writing that he will clear and settle the pending loan amount availed by him on the flat no.105 by December 2021 or else he will register an alternate flat bearing no.306



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in favour of the complainant. That being the case, prayer of the complaint for refund of amount paid cannot be considered by this Authority. Under such circumstances, it is just and appropriate to issue directions to the respondent to complete and provide all the amenities as per inspection report dated 14/7/2023. Having received the substantial consideration, failure on the part of the respondent to complete the work and to provide all the amenities, certainly entitles the complainant for the relief claimed. Accordingly, the point raised above is answered in the Partly Affirmative.

16. Answer to point no.2. In view of the above discussions, I conclude that, this complaint deserves to be allowed in part. Accordingly, I proceed to pass the following order:

ORDER

17. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No: **CMP/220817/0009902** is hereby allowed:

1. The respondent is hereby directed to complete and provide all the amenities as per inspection report dated 14/7/2023 within 60 days from the date of this order.
2. The respondent is directed to obtain necessary occupancy certificate from the competent authority and provide the same to the complainant.

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3. The complainant is at liberty to initiate action in accordance with law, in case if the respondent fails to comply with the said order.

No order as to costs.


(H.C. Kishore Chandra)
Chairman
K-RERA

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