

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 24TH DAY OF JANUARY 2024

Complaint No. CMP/210518/0007954

COMPLAINANT:

ARUNKUMAR HARIDAS
204, BLOCK-1, HARSHA
MEADOWS
SUDDAGUNTEPALYA
C.V. RAMAN NAGAR
BENGALURU URBAN-560094

(IN PERSON)

V/s

RESPONDENT....

M/s GAZY MAG PRIVATE
LIMITED
SALMA BIZHOUSE, No:34/1
3rd FLOOR, T-1 & T-2,
MEANEE AVENUE ROAD
ULSOOR ROAD
BENGALURU URBAN-560042.

(By Smt. SUJATHA H.H.,
Advocate)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act, against the project 'CASAGRAND BOULEVARD' developed by "M/S GAZY MAG PRIVATE LIMITED" for the relief of refund of advance payments, legal expenses etc.

2. The complainant has filed a letter dated 21/7/2023 stating that the RERA court via email-dated 18/7/2023 has mentioned the "Prayer of the complainant is for refund". However, based on the request submitted to the

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Hon'ble Authority and the proceedings thus far, the request from the complainant is for the respondent to honour the "final discounted price" of Rs.4500 + 50(PLC) which is confirmed in a formal email from the respondent to the complainant and offer the same unit that was finalized in the project "CASAGRAND BOULEVARD".

2. The respondent has developed this project in the limits of Sy.no. 45,46 and 47 of Chikkagubbi village, Bidarahalli hobli, Bengaluru east taluk, Bengaluru district-560 077.

3. This project has been registered in RERA vide registration no. PRM/KA/RERA/1251/446/PR/201001/003629

4. **The brief facts of the complaint are as under:** The complainant had booked unit no. E-205 on 21.11.2020 measuring 1858 Sq.ft at second floor in the project "CASAGRAND BOULEVARD" of the respondent for the unit price of 4599+150 and paid an amount of Rs.1,00,000/- (Rs. One lakh only) on 21/11/2020 to the respondent which has been duly acknowledged by him. Thereafter, the complainant has changed the said flat from unit-E-205 to G-302 at 3rd floor measuring to 1688 Sq.ft in the same project on 23/11/2020 for the unit price of 4541+ 150 and has paid another booking amount of Rs.50,000/- on 23.11.2020. It is contended that there was a rate agreed and offered by the builder. Subsequently, after submission of 1st advance payment the rate was increased. Therefore, the complainant has approached this Authority for refund of booking amount and legal expenses. 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 objections as under:

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The respondent has denied all the allegations made against it by the complainant as false. It is submitted that initially on 21/11/2020, the complainant had booked a unit No.E-205 in the project known as "CASA GRAND BOULEVARD" and the respondent has received booking amount of Rs.1,00,000/- from the complainant on 21/11/2020. At the time of booking and as per the booking form for the said unit, the unit price was agreed at Rs.4599+150(PLC) for a total of 1858 sq.ft and the same was made known to the complainant and thus he has signed the booking form accordingly. Thereafter, the complainant desirous of changing his earlier unit has booked unit No.G-302 in 3rd floor, and paid another booking amount of Rs.50,000/- (Rs. Fifty thousand only) on 23.11.2020. While changing his booking prior to the present one, the unit price was agreed at Rs.4541 + 150(PLC) for a total Sq.ft of 1688 and the same was made known by the complainant as per the booking form and had signed the booking form.

6. Further, the complainant has not made further payment within 60 days as per the terms of the booking form on one or the other pretext and also intimated to the respondent to reduce the cost further. Discussions were taken place for several months but no amount was reduced by the management of the respondent and hence no further booking form was executed in favour of the complainant and was asked to pay the sale consideration as per booking form for the unit G-302 at the rate of Rs:4541+150 (PCL) and the confirmation of the same was also sent through an e-mail dt:18-03-2021 to the complainant, but he did not agree to pay the same as per the latest booking form which was agreed and signed by the complainant himself.

7. The allegations of the complainant is that the unit price was agreed at 4500+50(PLC) vide email from CASAGRANDE dated 11th January



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2021. But the said allegation is denied by the respondent as there was no further booking form for the said unit price of Rs.4500 + 50(PLC) signed by both the parties. Besides, the management was not agreed to offer any discount as around 35 units in Phase-1 was sold at 4699+200(PLC), hence not dropped the cheque for further amount paid on subsequent stages. As per the latest booking form signed by the complainant the unit price of the unit No.G-302 was mentioned as Rs:4541+50(PLC) and the same was again reconfirmed by the respondent through an email conversations dated 3rd April 2021. The complainant delayed the 10% payment for two months. In spite of this delay, the respondent has managed to give him the same price as agreed in the booking form though the market rates were gone up further.

8. It is contended that as there was no further reduction in the sale consideration, the complainant himself has intimated the respondent to refund the amount. Accordingly, the respondent has refunded the booking amount of Rs.1,50,000/- on 27/11/2021 through online transfer to complainant's account. The complainant has lodged this present complaint and requested to refund the advance payment, legal expenses, relief towards loss of opportunity, time and effort but the said reliefs are not maintainable before this Authority as the advance amount has been fully refunded to the complainant. Hence, prayed to dismiss the complaint.

9. The complainant has filed objections raised by the respondent on 30th June 2023 as under:



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It is contended that at the time of booking, he was informed that Rs.1,00,000/- is only for booking the particular flat of his choice and that rate negotiation and document verification would follow subsequently. Based on this, he has paid the initial advance on 21st November 2020. On 22nd November 2020, the respondent has shared the revised rate of Rs.4541 + 150(PLC) via WhatsApp and on 23rd November 2020 via email. So the statement that Rs.4599 + 150(PLC) was "agreed" at the time of booking is totally false. Neither the rate had been finalized nor signed off at the time of booking. The fact that the rate was finally agreed to Rs.4500 + 50(PLC) is confirmed via documentary proof submitted to the Hon'ble Authority i.e. email of 11th January 2021. Further, it contends that the respondent has clearly referred to this rate of Rs.4500+50(PLC) as the "final discounted price" offered by the respondent. In fact, there was no new booking form signed for revision of the unit from E-205 to G-302 either. He has sent multiple email dated 6th March 2021, 11th March 2021, 15th March 2021 with respondent on legal verification of documents. Suddenly, the respondent has sent a mail to him on 17th March 2021 stating that "kindly release the 10% payment today to retain the same unit". The total sale consideration indicated by the respondent is Rs.98,34,000/- which is based on "final discounted price" offered by the respondent of Rs.4500 + 50(PLC). He has paid the balance of Rs.8,33,400/- vide cheque on 17th March 2021. Further, immediately, upon receiving the cheque of Rs.8,33,400/- on the next day on 18th March 2021, the respondent has increased the price to Rs.4541+150 (PLC). He has sent more than 50 reminder emails to the respondent, and it took more than 8 months to get back his amount of Rs.1,50,000/- from the respondent. It is submitted that the entire transaction has been conducted based on



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the written offer of final rate on 11th January 2021 from the respondent's side. The respondent has chosen to completely ignore this fact in their statement of objections dated 30th June 2023.

10. Heard both the parties. This matter was heard on 20/10/2022, 7/11/2022, 25/11/2022, 30/6/2023, 17/07/2023.

11. 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?

12. Findings on the above points are as under:

1. In the Negative.
2. As per final order:

FINDINGS

13. **My findings on point no.1:** The grievance of the complainant is that the respondent has to honour the "final discounted price" of Rs.4500+50(PLC) which was confirmed in a formal email from the respondent to him and offered the same unit i.e. G-302 in the project "CASAGRAND BOULEVARD" that was finalized. In fact, there was no new booking form signed for revision of the unit. E205 to G-302. Further booking forms need to be signed as stated by the respondent is baseless.

14. The same is resisted by the respondent on the ground that at the time of booking and as per the booking form for the unit G-302 measuring 1688 Sq.ft, the unit price was agreed at Rs.4541 + 150(PLC) and the same was agreed and signed by the complainant to the booking

Asb

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form accordingly. Since the management of the respondent has not reduced any unit price for the said unit, hence no further booking form was executed in favour of the complainant and accordingly the complainant was intimated to pay the sale consideration as per booking form. But the complainant did not agree to pay the same.

15. From the materials placed on record, it is apparent that the complainant at the time of changing his booking prior to the present one, the unit price was agreed at Rs.4541+150(PLC) for total Sq.ft of 1688 and accordingly he has signed the booking form. Further, the complainant has delayed the 10% payment for two months. It may be noted that as there was no further reduction in the sale consideration amount, the complainant himself has sought for refund of amount through e-mail dated:18-03-2021 and 04-04-2021. As per the request of the complainant, the respondent has refunded the booking amount of Rs.1,50,000/- (Rs. One lakh fifty thousand only) on 27/11/2021 through online transfer to complainant's account.

16. It is pertinent to note that there is no booking form and agreement of sale executed and signed between both the parties for the unit price of Rs.4500+50(PLC) for the unit G-302, this Authority cannot accept the unit price of the said unit as Rs:4500+50 (PLC). From the available documents and materials placed on record, it is apparent that the amount of Rs.4541+150(PLC) for the new unit G-302 was agreed and signed by both the parties on 23/11/2020 and the same unit price was reconfirmed by the respondent vide his mail dated 03-04-2021. Further, as per the request made by the complainant himself, the amount has been returned by the respondent without any admissible deductions as per the terms of booking form. Such being the case, since the respondent has already refunded the entire amount to the complainant as per his request without any admissible deductions,

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hence this Authority is of the opinion that the question of directing the respondent again to return the payment does not arise. Accordingly, the point raised above is answered in the Negative.

17. As regards other reliefs sought by the complainant towards legal expenses, loss of opportunity, such reliefs does not come under the purview of this Authority.

18. **My findings on point no.2:** In view of the above findings, I conclude that the complaint deserves to be dismissed. Hence, I proceed to pass the following order:

ORDER

In exercise of the powers conferred under section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No: **CMP/210518/0007954** is hereby dismissed.

No order as to costs.



(H.C. Kishore Chandra)

Chairman

K-RERA