

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

**PROCEEDINGS OF THE AUTHORITY BEFORE BENCH-4**

**PRESIDED BY SHRI. H.C. KISHORE CHANDRA, CHAIRMAN**

**DATED 2<sup>nd</sup> DAY OF FEBRUARY 2024**

**COMPLAINT No: CMP/UR/201126/0006911**

**COMPLAINANT....**

**ANURAG OJHA  
85, CHAMAN VIHAR  
LANE 7, PO MAJRA  
DEHRADUN  
UTTARAKHAND-248171**

**(PRESENT ON SKYPE)**

**V/S**

**RESPONDENT.....**

**VINOD SHARMA  
DEVELOPER/PROMOTER  
M/s IEGLO DEVELOPERS  
NO:405, 4<sup>TH</sup> FLOOR  
"MOTATI MEADOWS"  
NAGVARPALYA  
OLD MADRAS ROAD  
C.V. RAMAN NAGAR POST  
BENGALURU URBAN-560093**

**(REP BY SUDARSHAN KS  
ADVOCATE)**

**JUDGEMENT**

1. This complaint is filed under section 31 of the RERA against, project "KRISHNA KUTEER WHITE HOUSE PHASE-II" developed by "M/s IEGLO DEVELOPERS" for the relief of refund with interest or possession.



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2. This project is not registered in RERA. This Authority has passed an interim order dated 6/7/2023 directing the respondent to register the project within two weeks from the date of the said order. But the respondent has failed to do so.
3. The builder has developed this project situated at old Sy.No: 126/1 new Sy.No. 126/5, Channasandra Village, Bidarahalli Hobli, Bengaluru East Taluk.
4. The complaint is Anurag Ojha. As per the sale deed dated 15/2/2014, both the complainant and his wife Rashmi Ojha are the purchasers.
5. The gist of the complaint is that the complainant had booked a plot bearing No.5, Phase II in the project "KRISHNA KUTEER WHITE HOUSE PHASE-II" of the respondent and entered into an agreement of sale dated 4/1/2014 for a total sale consideration of Rs.52,60,000/-. Upon receipt of entire sale consideration from the complainant, the respondent has executed a sale deed in favour of the complainant on 15/2/2014 and handed over the possession on the same day.
6. The complainant has further entered into a construction agreement dated 4/1/2014 towards construction of villa on the said plot no.5. Both the parties agrees and undertakes to construct the same as per the dimensions, specifications and details as contained in the Schedule "C" to this construction agreement. As per the said agreement, Rs.35,77,500/- (Rs. Thirty five lakhs seventy seven thousand five hundred only) towards cost for villa and Rs.14,58,500/- (Rs. Fourteen lakhs fifty eight thousand five hundred only) towards infrastructure, development cost, BESCOM, BWSSB, plan sanction fees, taxes and other charges. The respondent was required to handover the possession of the



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Karnataka Real Estate Regulatory Authority,

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said villa no.5 within 15 months from the date of construction agreement i.e. 4/1/2014 with a grace period of 3 months i.e. by 4/7/2015. It is contended that though he has paid the entire sale consideration, the respondent did not handover the possession till date. Therefore, he has approached this forum for the relief of direction to the respondent either to refund the amount paid along with interest or handing over of complete villa. Hence, this complaint.

7. After registration of the complaint, in pursuance of the notice, the respondent has appeared before this Authority through its counsel and filed objections as under:
8. The respondent has denied all the allegations made against it by the complainant as false. It is contended that they have entered into a construction agreement with the complainant on 4/1/2014 stating that they would construct a villa on the plot no.5 phase-II that is purchased by the complainant. Pursuant to the agreement of sale, the respondent has executed the absolute sale deed in favour of the complainant on 15/2/2014 and handed over the possession of the plot no.5 on the same date. He has constructed the villa in accordance with the plan dated 23/5/2013 approved by the Town Planning Authority, BBMP and the same was valid upto 22/5/2015. He has sold all the plots and constructed villas prior to 2016 and all the residents have been residing in the said villas. It is further submitted that he has completed the project on 25/9/2017 and has obtained architect certificate for structural stability on 25/9/2017 from the registered structural engineer. He contends that the letter received from BESCO for electrification for the said villa layout dated 7/9/2013 would establish



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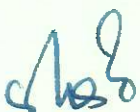
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the authentication for completion of the project and handed over the possession to the complainant.

9. It is submitted that the complainant is a resident of United States has insisted for many changes of his villa and the respondent has made changes as per the request of the complainant. Further, the complainant in regular intervals was insisting upon him several changes as per his choice. The said cost of changes is to be borne by the complainant and cannot be deemed as non-completion since he has completed the project. Further, the complaint was still in default of Rs.2,70,000/- to the respondent. Hence, prayed to dismiss the complaint.

10. Further, the respondent has filed written arguments as under:

The respondent has executed sale deed in favour of the complainant on 15/2/2014 and completed the project much before the RERA Act came into force. The complaint is premature as the complainant has not paid the entire sale consideration. As per the terms of agreement, it was agreed to provide granite floor whereas the complainant demanded marbles flooring and that he has handed over the possession to complete flooring. The complainant took almost a year to complete the marble flooring and has not handed over the keys. The complainant has demanded that the windows be replaced by wood instead of steel /aluminum which is not in terms of the agreement and for this he would bear the additional cost. The balance work if any is minor and the cost is much lesser than the amount to be paid by the complainant. The complainant alleged that waterproofing was not done. When the complainant himself got the flooring done, he himself was responsible for the waterproofing and cannot cast the liability on the respondent. The complainant alleged that electricity points have



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Karnataka Real Estate Regulatory Authority,

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not been completed. The respondent has completed wiring in the entire villa but only switch boards have to be fixed which is to be done in the last stage. As regards grievance of the complainant that the grill for ground floor bedroom is not placed, the same is not as per the agreed terms. As regards allegation of the complainant that the plumbing/piping, sinks, tiles, bathtub, taps, shower are not placed, he has not agreed to install a bathtub at their cost. The piping and tiles were fixed prior to handing over possession to the complainant. The staircase railing from ground to first floor and first floor to second floor was kept pending since the complainant has not paid the balance amount of Rs.2,68,000/-. He has not promised a kitchen in the second floor and that the complainant is liable to get the same at his own cost. The allegation of the complainant that respondent has not completed texture/whitewash/paint, the respondent has completed painting work of two coating as per the construction agreement immediately after laying the tiles on the terrace. It is further alleged that 2<sup>nd</sup> floor water proofing is yet to be completed, however the respondent submits that the 2<sup>nd</sup> floor was not constructed or promised to the complainant and it is only the water tank that is placed. As regards allegation of the complainant that solar connection and water tank is not placed, he has already completed and only the device was to be placed. It is alleged that the doors for room inside villa is not fixed, the respondent has already fixed all the doors. It is further alleged by the complainant that the Sewerage connection is not provided, the respondent has already given the connection but for permission to use would be given by the association upon payment of monthly maintenance. Since the complainant has not paid the maintenance hence the association has not given the connection. The respondent has not specified any detail about the painting grills in the construction agreement. It is alleged by the complainant that the road in

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Karnataka Real Estate Regulatory Authority,

# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
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front of the villa is not completed, roads were laid during the initiation of the project. It is further submitted that unless the complainant makes full payment and further ready to bear extra cost due to rise in price, it would not be possible for the respondent to complete the work as the cost of materials have exponentially increased by 60%.

11. In support of his claim, the complainant has produced documents such as (1) copies of agreements of sale and construction both dated 4/1/2014 (2) copy of sale deed 15/2/2014 (3) copy of legal notice dated 12/3/2018 (4) details of payment made to the respondent
12. In support of his defence, have produced documents such as (1) copies of agreements of sale and construction both dated 4/1/2014 (2) copy of sale deed 15/2/2014 (3) photographs after completion (4) Approval from Town Planning Authority, BBMP (5) certificate of Structural Stability (6) letter from BESCO for electrification (7) email conversations between complainant and the respondent.
13. Heard arguments of both the parties. The Authority has taken note of the written arguments of the respondent dated 3/7/2023 and objections by the complainant.
14. 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?
15. **Findings to the above points are as under:-**
  1. In the Affirmative.
  2. As per final order for the following:

1/28



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**FINDINGS**

**16. Findings on point No.1:-** The grievance of the complainant is that he had entered into agreements of sale and the construction agreement with the builder/respondent on 4/1/2014 for construction of villa no.5 in the project "KRISHNA KUTEER WHITE HOUSE PHASE -II" on the plot that is purchased by him. Pursuant to the agreement of sale, the respondent has executed absolute sale deed favour of the complainant on 15/2/2014. The project had 47 villas and approval plan for whole project, structural stability report, BESCOM electrification of project does not mean that the his villa no.5 is complete or handed over. Complainant villa was never given to him even after multiple legal notices dated 12/3/2018 and 30/11/2020. Several changes to his villa were mutually agreed at the beginning of the project and that he has paid hefty amount for the changes. All the amount associated with the changes were paid without any delay. There are about 20 items that were still not completed. He has suffered huge financial loss in terms of 7 years of paying loans, losing interest on fixed deposits', losing rent on villa for 7 years.

17. The same is resisted by the respondent that he had constructed the villa no.5 in accordance with approved plan dated 23/5/2013 and the same was valid upto 22/5/2015. He has sold all the plots and constructed villas prior to 2016 and all residents have been residing in the said villas. The project has been completed as on 25/9/2017. The complainant in regular interval was insisting on several changes as per his choice. The said cost for the changes has to be borne by the complainant and cannot be deemed as non-completion since he has completed the project. He is not in default and that he has completed the works as agreed.

18. During the proceedings held on 24/7/2023, the Authority has ordered for spot inspection. Accordingly, the engineers of RERA team has conducted spot inspection



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Karnataka Real Estate Regulatory Authority,

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on 22/9/2023 in the presence of both the parties. The inspection report reveal that the building structure of villa no.5 has been completed. Flooring tiles, granite slab at entrance, door frames, UPVC windows were provided. Railings for staircase upto terrace floor was not provided. Painting was done along with window grill but it is worn out. Though electrical wirings was done, due to non-maintenance, wires and fittings are being stolen or missing and few were damaged. Kitchen dado slabs and platform provided but there is no wash basin and commode in the bathroom. Shutter doors to the main door, all bed rooms and washrooms though provided but some are damaged due to non-maintenance. Few flush doors were provided. Few flush doors are provided. Solar connection panels not done, painting to the grills to be done, plumbing works to be repaired, external painting was done long back it got dirty, dampness at few places on walls which is to be corrected. Water tank to be fixed at terrace floor. At few places on external walls, cracks have developed and it needs to be repaired. There was no proper maintenance since 4 to 5 years. Even the main entrance was kept open as no watch and ward or security.

19. Undisputedly, the complainant has entered into an construction agreement dated 4/1/2014 towards construction of villa on his plot no.5 in the project "**KRISHNA KUTEER WHITE HOUSE PHASE II**" with the respondent. As per the terms of agreement, Rs.35,77,500/- (Rs. Thirty five lakhs seventy seven thousand five hundred only) towards cost of construction and Rs.14,58,500/- (Rs. Fourteen lakhs fifty eight thousand five hundred) towards infrastructure development cost. The respondent was required to hand over the possession of the said villa within 15 months from the date of signing the agreement with a grace period of three months i.e. by 4/7/2015. Though the complainant has paid the substantial sale consideration, the respondent has not handed over the said villa no.5 to the complainant even after more than 7 years.

20. On going through the entire documents and materials placed on record, it is apparent that the respondent has not completed the pending works as pointed out by the Engineering team, KREERA during their inspection dated 22/9/2023. In this regard, to substantiate his defence, the respondent has not





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Karnataka Real Estate Regulatory Authority,

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furnished any iota of evidence to prove that he has obtained the occupancy certificate. From this, it is crystal clear that the respondent has not fulfilled all the obligations and has not completed the entire construction of the said project and obtained necessary occupancy certificate from the competent authority.

21. The complainant has sought for the relief of refund of amount with interest or possession. Herein this case, the respondent has already completed the major work. As already discussed above, during inspection by the Engineering team of RERA, it was noticed that there are some works to be completed. Under such circumstances, it is just and appropriate to give directions to the respondent to complete all the pending works with respect to villa no.5 of the complainant. In addition, it is just and appropriate to issue directions to the respondent to execute the sale deed in respect of villa no.5 in the project "KRISHNA KUTEER WHITE HOUSE PHASE-II" in favour of the complainant on receipt of balance amount if any, and hand over the possession of the same. Accordingly, the point raised above is answered in the Affirmative.

**22. Findings to point no.2.** In view of the above discussion, I conclude that, this complaint deserves to be allowed. Accordingly, I 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/201126/0006911 is hereby allowed as under:

1. The respondent is hereby directed to complete all the pending works per agreement of construction dated 4/1/2014.

ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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2. The respondent is directed to execute sale deed in respect of villa no.5 in the project "KRISHNA KUTEER WHITE HOUSE PHASE-II" upon receipt of balance sale consideration if any and hand over possession of the same to the complainant with all amenities within 60 days from the date of this order.
3. The Secretary, KRERA shall initiate proceedings u/s 59(1) of the Act against the respondent-promoter for violation of section 3 of the Act to register the project.
4. 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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