

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

Karnataka Real Estate Regulatory Authority Bangalore

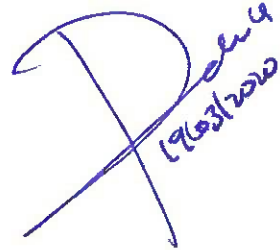
ನಂ:1/14, ನೆಲ ಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

62

BEFORE ADJUDICATING OFFICER
PRESIDED BY SRI K. PALAKSHAPPA
DATED 19th OF MARCH 2020

Complaint No.	CMP/190909/0003878
Complainant	Parimala Jamadagni & G.S.Jamadagni, Fiat No.1704, A Wing, Club Meadows, Hiranandani, Akshay Nagar, Near Hulimavu Lake, Begur, Bommanahalli, Bengaluru-560068 Rep.by Shri Milind Dange, Advocate.
Opponents	Tapovan Solace Tapovan Projects 1. K.Ajit Narayana No.7/A, A-Block, Vasu Layout, Dattagalli, Mysuru-570023 2. K.Sriram No.7/A, A-Block, Vasu Layout, Dattagalli, Mysuru-570023 Rep.by Shri Srinidhi P, Advocate

1. Parimala Jamadagni and G.S.Jamadagni, complainants jointly have filed complaint no. CMP/190909/0003878 under Section 31 of RERA Act against the project "Tapovan Solace " developed by "Tapovan Projects" as they are the allottee in the said project seeking for the relief of refund of amount and compensation. The complaint reads as under:


19/03/2020

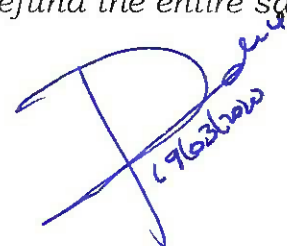
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ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

The Complainants made enquiries with the Respondents about the completion of 'Tapovan Solace' Project. The Respondents assured and promised to the Complainants that, the Project will be ready for occupation by end of June 2018 with additional grace period of 6 (six) months in order to cater for any unforeseen circumstances. This fact has been clearly stated in para 10 of the Agreement for Sale dated 04/10/2017, referred infra. It is further pertinent to note that, the Respondents (represented by their Marketing director Rajeev Krishna, S/O Sri. K. Sriram) offered to sell the apartment in 'Tapovan Solace' project, to the Complainants, for a total sale consideration of Rs.70,00,000/- (Rupees Seventy Lakhs Only) immediate down payment. 4. Based on the assurances and promises made by the Respondents, the Complainants have agreed to purchase an apartment, in 'Tapovan Solace' Retirement Community Project, bearing No. 301, measuring 1365 Sq.Ft., consisting of 2 BHK, situated on 3rd Floor of the 'Tapovan Solace' Apartment Building with 546 Sq.Ft., of undivided right, title and interest in the Residentially converted Land bearing Sy. No. 167/1B, Bogadi, Chamaraja Mohalla, Mysore, for total sale consideration amount of Rs,70,00,000/- one time down payment. Pursuant thereto, the Respondents prepared an Agreement for Sale dated 04/10/2017, which was executed between the Complainants and the Respondents, and the Complainants paid Rs.1,00,000/-, to the Respondents towards booking amount, by way of a cheque bearing No.833897, dated 04/10/2017, drawn on State Bank of India, Jayanagar 9th Block Branch, Bangalore.

The Complainants visited Mysore again in the month of December 2017, and during discussions the respondents reiterated their promise that the apartment would be handed over for possession by June-July 2018. 7. It is further submitted that, even though the Respondents have received the entire sale consideration amount of Rs.70,00,000/- well in advance, they could not complete the construction of the Apartment/s and hand over for possessions, as promised by them, either at the end of June 2018, or on expiration of the extended period of 6 months. 8. However, in June-July 2018 the complainants noticed that, the project was not ready in all aspects and the apartment was not ready for occupation, as promised by Respondents. Therefore, the Complainants requested the Respondents to refund the entire sale


19/03/2018

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consideration amount of Rs.70,00,000/-, as the project will not be completed on time as per the Agreement for Sale dated 04/10/2017. Then the Respondents agreed to refund the entire sale consideration amount to the Complainants, and sought for some time. 9. Ever since, July 2018, the Complainants are following up with the Respondents and requesting them to refund the Sale consideration amount, or at least execute the Sale Deed in their favour, in respect of the Apartment bearing No.301, in Tapovan Solace project. From December 2018, the Complainants are trying to contact the Respondents, but the Respondents are neither responding to the phone calls of the Complainants, nor to their emails, and thereby the Respondents remained incommunicado with the Complainants. However, after several phone calls and persuasions, the Respondents returned Rs.15,00,000/- only to the Complainants on 17th May 2019, by way of Transfer of funds through Bank. 10. The Complainants are entitled to receive from the Respondents the balance Sale Consideration amount with interest calculated at the rate of 18% per annum, and reasonable compensation towards the mental harassment & Agony suffered by the Complainants in the hands of Respondents, which is as under: a. The balance Sale Consideration Amount retained by Respondents Rs.55,00,000/- b. Interest @ 18% per annum, from 06/10/2017 to 15/05/2019, on Rs.70,00,000/- (19 Months) Rs.19,95,000/- c. Interest @ 18% per annum, from 15/05/2019 to 15/08/2019, on Rs.55,00,000/- (3 Months) Rs. 2,47,500/- c. Compensation for Mental Harassment & agony, and other expenses Rs. 5,00,000/- Total Rs.82,42,500/- 11. The 'Tapovan Solace' Project, Mysore, is registered with RERA, and this Hon'ble Authority has the jurisdiction to decide the present complaint under RERA Act. 12. Hence, the present complaint against the Respondents seeks the following relief: Interim Relief a. Direct the Respondents to pay 50% of the Rs.82,42,500/- amounting to Rs.41,21,250/- as an interim measure immediately. FINAL RELIEF The Complainants most respectfully prays that, this Hon'ble Tribunal be pleased to: - a. Direct the Respondents to pay to the Complainants the balance sale consideration held back by them, along with the interest @ 18% per annum, and compensation for Mental Harassment & agony, in all amounting to Rs.82,42,500/-, as calculated above. b. Direct the Respondents to pay the Interest on Rs.82.42,500/- at the rate of 18% till the date of payment of the same to the

Prakash

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Karnataka Real Estate Regulatory Authority Bangalore

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Complainants. c. Initiate any other proceeding/s against the Respondents for violating the RE (R & D) Act., d. Grant any other relief/s as this Hon?ble Authority deems fit under the facts and circumstances of this Case, in the interest of justice and equity. 1. Smt. Parimal Jamadagini Advocate for Complainants, 2. Sri. G.S. Jamadagini COMPLAINTS Place: Bangalore, Date: 13/08/2019.

Relief Sought from RERA : Refund of amount paid with interest and compensation

2. In pursuance of the summons issued by this authority, the complainant and respondents have appeared through their respective counsels Sri Milind Dange and Sri Srinidhi P, respectively. Written arguments filed on behalf of the complainant and also respondent.
3. I have heard the arguments on both sides.
4. The points that arise for consideration are:
 - a. Whether the complainants are entitled for relief, as sought in the complaint?
 - b. if so, what is the order?
5. My answer is affirmatively for the following

REASONS

6. The complainant has entered into agreement of sale with the developer in respect of flat bearing No.301 in Tapovan projects, Mysuru and the complainant has paid Rs.70,00,000/- commencing from 04/10/2017 and on different dates. The developer has agreed to complete the project on or before June 2018 with another 6 months of grace period. However, in the month of July 2018, the complainants have decided to cancel the agreement of sale and demanded the developer to repay the amount. It is the case of the

[Handwritten signature and date]
13/08/2019

Karnataka Real Estate Regulatory Authority Bangalore

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complainant that since July 2018 they are demanding for refund of the amount. The developer did not consider their prayer. Therefore, the complainant has filed this complaint seeking for the relief of amount.

7. Per contra, the developer has submitted his objections stating that the complainants have met Sri Rajeev Krishna, authorised signatory of Tapovan Projects and had enquired about the apartments. But it is totally denied that the said Rajiv Krishna has assured the completion of the project within end of June 2018. The complainant has alleged that an offer price of Rs.70,00,000/- (rupees seventy lakhs only) was given if the amount would be deposited within two days. This allegation is totally denied. In fact, it is these complainants who negotiated and convinced the Tapovan projects to close the deal at 70,00,000/- (rupees seventy lakhs only) and with an assurance that they will deposit the amount within two days. It is admitted that the complainants have made an initial payment of Rs.1,00,000/- (rupees one lakh only). It is further admitted that the complainant has made the balance consideration of Rs.69,00,000/- (rupees sixty nine lakhs only) but not within the said two days as agreed by the complainant themselves. The allegations made by the complainants that they noticed the project not being completed and not legally ready for occupation is totally denied. The complainants have never visited the apartment premises and inspected till date. In fact many of the residents have occupied the apartments and the apartments services have already started. It is a fact which is admitted that the complainants had approached for the refund of the deposited money. The complainants have posed that they are in a financial crunch and the reason being so, they are in dire need of money, so it would be


19/03/2020

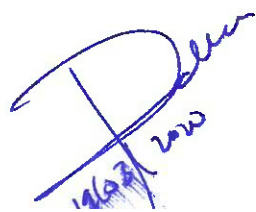
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helpful if Tapovan projects repays the amount which they had paid for. It is to be brought to this authorities kind notice that, it was the complainants who had asked the respondents to refund the amount that they had paid, whereas the respondents had the apartment all ready for the complainants to take possession of the same. Understanding the situation and owing to the call of the complainants, the Tapovan projects agreed to repay the amount provided if other occupant/purchaser purchases the said apartment. In spite of the written obligation in the agreement of sale and the statutory defence in support of the Tapovan projects under the Specific Relief Act, Tapovan projects was very lenient and assured the complainant for the repayment of the amount. However, the Tapovan projects made it very clear that the amount will be refunded only after the successful execution of the sale deed in favour of another buyer of the same apartment.

8. According to the developer the dispute is civil in nature. Further it is alleged by the developer that the complainant has also lodged complaint against the developer and the police have registered FIR against the developer. Of course, the developer has not placed any evidence before this authority to show that the complainant has filed a FIR. He has not produced copy of the same.
9. Even though the developer has submitted in his objection statement that the dispute between them is civil in nature, but the complainants have said that even though they have paid Rs.70 lakhs towards purchase of the flat and on their constant demand for repayment, the developer has returned Rs.15 lakhs which is also admitted by the developer. It means whatever the allegations made by the complainants regarding the payment towards purchase of the flat is proved from the act of the developer who had


14/03/2020

returned the amount in part. Now the reasons behind the complainants to withdraw from the project because the developer has assured him that he is going to complete the project on or before December 2018 including grace period. It is alleged that the complainants have demanded for refund of the amount in the month of July 2018 itself. Of course, it is little bit earlier since the date of completion was December 2018 including grace period. However, the complaint has been filed after due date as mentioned in the agreement. It is well established principle that as per Sec.18, allottee can demand the amount in case the project has not been completed within due date. It is not the case of the developer as on date of filing of this complaint the project was completed and he has received the occupancy certificate and as per Sec.18 he has to return the amount with interest. However, it is noticed that the complainant has given the police complaint against the developer. When it was brought to the notice of the advocate for complainant he has filed a memo stating as under:

"The respondent is due and liable to pay Rs.55 lakhs plus interest and damages, as on the date of filing the complaint. Aft filing the complaint the respondent has paid Rs.15 lakhs. Hence, the complainant prays for decree and judgment for the balance amount of Rs.40 lakhs, with interest and damages. Further, the complainant will pursue the mode of recovery only through the law as contemplated under RERA Act". With this observation, I allow this complaint.

10. Before passing the final order I would like to say that as per section 71(2) of RERA the complaint shall be disposed off by the Authority within 60 days from the date of receipt of the complaint. This complaint is filed on 09/09/2019. In this case the complainant and the developer were present on 04/10/2019. After hearing the

Devi
19/10/2019

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parties the case was reserved for judgment. With this observation, I proceed to pass the following.

ORDER

- a. The complaint bearing No.CMP/190909/ 0003878 is hereby allowed in part.
 - b. The developer is hereby directed to refund Rs.40,00,000/- to the complainant.
 - c. The developer is hereby directed to pay interest @2% MCLR of SBI on the amount of Rs.70,00,000/-from 07/10/2017 till 16/05/2019.
 - d. The developer is hereby directed to pay interest @2% MCLR of SBI on the amount of Rs.55,00,000/-from 17/05/2019 till 07/11/2019.
 - e. The developer is hereby directed to pay interest @2% MCLR of SBI on the amount of Rs.50,00,000/-from 08/11/2019 till 22/12/2019.
 - f. The developer is hereby directed to pay interest @2% MCLR of SBI on the amount of Rs.40,00,000/-from 23/12/2019 till realisation. (Today's MCLR has to be taken to calculate the interest)
 - g. The developer is also directed to pay Rs.5000/- as cost.
 - h. Intimate the parties regarding the order.
- (Typed as per dictated, corrected, verified and pronounced on 19/03/2020).


K. PALKSHAPPA
Adjudicating officer



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ COMP-3879

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ Panimala Jamadagni & vs. Jamadagni
Tapovam Project

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP-3878
22.06.2022

As per the request of complainants and developer this complaint is taken-up for amicable settlement in the National Lok Adalath to be held on 25.06.2022.

The 1st complainant and developer are present in the pre-Lok-Adalath sitting held on 23.06.2022 settled the dispute relating to the subject matter of the complaint and filed the joint memo signed by the parties stating that matter has been settled between the parties in terms of the settlement agreement dated: 23.06.2022 entered between them. The 2nd complainant is aged about 81 years who has appeared before conciliators through video call and hence compromise is recorded.

I made enquiry for which both of them have agreed. Hence, I hold that the settlement entered between the parties is voluntary and legal one and therefore the settlement is accepted. For consideration of joint memo and award, matter is referred to Lok-Adalat to be held on 25.06.2022.

Panimala Jamadagni
1st Complainant 23.06.2022

[Signature]
Developer
23.06.22

[Signature]
23/6/2022
Advocate Conciliator

[Signature]
Judicial Conciliator
23/6/22

CMP. No. 3878

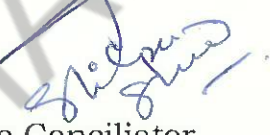
25.06.2022

Before the Lok-Adalat

The above case is taken up before the Lok-Adalath. The joint memo filed by both the parties is hereby accepted. Hence, the matter is settled before the Lok-Adalath as per joint memo. The joint memo filed by the parties shall be part and partial of award/order.

The complaint stands disposed of accordingly.


Judicial Conciliator.


Advocate Conciliator.

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**BEFORE LOK-ADALAT IN THE KARNATAKA REAL
ESTATE REGULATORY AUTHORITY, AT BENGALURU**

COMPLAINT NO: CMP/190909/0003878

Complainants : 1.Parimala Jamadagni
2. G.S.Jamadagni

-Vs-


Respondent : Tapovan Solace

JOINT MEMO

The Complainants and respondent/Promoter after discussing their dispute with the complainant relating to the subject matter of the complaint in the presence of Conciliator amicably agree to settle of their dispute complaint under the following terms and conditions:

1. It is agreed that the complainants had paid a sum of Rs.70,00,000/- to the developer towards the purchase of the flat bearing No. 301.
2. The complainants have taken the award from the authority.
3. The parties have agreed that the developer has return partial amount of Rs.50,00,000/- to the complainants.
4. On conciliation the developer has agreed to pay Rs.26,00,000/- including interest on or before 31-10-2022 as lumsum amount payable to the complainants for which the complainants have agreed.
5. The developer also agreed to pay the interest on the amount of Rs.26,00,000/- at the rate of 10% per annum incase he failed to make the payment on or before 31-10-2022.
6. Parties have entered into this settlement of this complaint voluntarily on their free will and volition and it is free from any force or misrepresentation. Parties have agreed that this

Parimala Jamadagni
23.6.2022


23/6/22

settlement shall not be used as precedent / evidence for any other case.

7. Both the parties to the proceedings have no claim whatsoever against each other in respect of the subject matter of the above complaint before any forum or court relating to the subject matter of the above complaint. If there is any claim by either of the parties, they have agreed that the same be disposed off as settled by filing an appropriate memo in such cases.
8. Parties hereby declare that they have no any other disputes or case pending before any other Courts or Forum pertaining to the subject matter of the above complaint. If there is any such dispute is pending before any Forum or Courts, the same may be closed as settled on either parties to this complaint by filing an appropriate memo in such dispute case.
9. Parties have agreed for recording this settlement in the National Lok-Adalath scheduled to be held on 25.06.2022.

Bengaluru:

Date: 23.06.2022

Parimala Jamadagni
Complainant No.1 23.06.2022

K. D. S.
Developer 23.06.22

KARNATAKA STATE LEGAL SERVICES AUTHORITY

BEFORE THE LOK ADALAT

**IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU**

DATED: 25TH DAY OF JUNE 2022

: CONCILIATORS PRESENT:

Sri: K. Palakshappa Judicial Conciliator

AND

Sri/Smt.: Shilpa Shard Shrikhande Advocate conciliator

COMPLAINANT NO: CMP/190909/0003878

Between

1) Mrs. Parimala Jamadagni

2) Mr. G.S.Jamadagni

..... Complainant/s

(In Person)

AND

Tapovan Projects.,

.....Respondent/s

Award

The dispute between the parties having been referred for determination to the Lok-Adalat and the parties having compromised/settled the matter, in terms of joint memo dated:23.06.2022 filed during the Pre Lok-Adalat sitting held on dated:23.06.2022, same is accepted. The settlement entered between the parties is voluntary and legal one.

The complaint stands disposed off, in terms of joint memo and joint memo is a part and partial of the award.

Judicial conciliator

Advocate conciliator