ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ 4100 ಪುಟ ಸಂಖ್ಯೆ 05

ವಿಷಯ Ajeet Keemar Mall
Nitesh Melbourne Park

ಕಂಡಿಕೆ ಸಂಖ್ಯೆ	ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು	

Date : 26.03.2021
Execution Order :
CMP 4100

Complaint under Section 31 of RERA Act has been initiated by the complainant Mrs.Ajeet Kumar Mall who is the buyer under the project "Nitesh Melbourne Park" which is developed by "Nitesh Housing Developers Pvt. Ltd.," This complaint was filed by the complainant claiming refund. After hearing the parties, order was passed on 20/05/2020 by directing the developer to refund the amount of Rs.20,30,896/- together with simple interest @ 9% per annum on the respective amount paid on the respective dates till 30/04/2017 and @ 2 above the MCLR of SBI commencing from 01/05/2017 till the realization of entire amount.

The developer shall pay Rs.2,36,104/- to the complainant and recover the same from the department.

The developer is also hereby directed to pay 5,000/- as cost of the petition.

The complainant has calculated the amount paid by him. According to him from 01/09/2014 to 08/06/2016 he had paid total amount to the builder is Rs.17,68,223/- from 01/09/2014 to 30/04/2017 he as calculated

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on the respective amount paid on respective dates with interest of @ 9% per annum on the said amount, which interest totally comes to Rs.1,71,459/-.

The complainant has calculated the amount paid by him was on 01/05/2017 is Rs.17,68,223/,with interest @9.55% per annum above the MCLR of SBI on the said amount paid by him from 01/05/2017 to 30/06/2020 which comes to Rs.4,81,762/-

The complainant has calculated the amount paid by him was on 06/04/2018 is Rs.4,98,777/,with interest @9.55% per annum above the MCLR of SBI on the said amount paid by him from 06/04/2018 to 30/06/2020 which comes to Rs.93,826/-

Therefore the total interest payable by the developer from 01/09/2014 to till 30/06/2020 Rs.7,47,047/-.

Total amount due from the developer is Rs.30,19,047/-.

The complainant has given a representation with memo of calculation since the developer failed to comply with the same. There is no appeal. Objections called for but not filed.

As per Rule 25 of the Karnataka Real Estate (Regulation and Development) Rules, 2017 the

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recovery of the amount due is to be considered as arrears of land revenue. In support of the same the authority is taking the shelter under Section 40 of the RERA Act which reads as follows;

> *Sec 40(1): "if a promoter or an allottee of a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the regulatory authority or the appellate authority, as the case may be, under this Act or the rules and regulations made there under, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue"*

When Sec. 40 read with Rule 25, the Deputy Commissioner is empowered to execute the order dated 20/05/2020 considering this amount as arrears of land revenue and has to be recovered from the developer. Hence the following

ORDER

By acting under Section 40 of the RERA Act, read with Rule 25, the amount payable of Rs.30,19,047/-.which is treated as arrears of land revenue from the developer "Nitesh Housing Developers Pvt. Ltd.," and the same

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has to be recovered by sending the file to Deputy Commissioner for recovery as arrears of land revenue. The same amount shall be deposited in the office Account.

The above amount has been calculated up 30/06/2020.

Office is hereby directed to mention in the recovery warrant

a. As to the recovery of future interest on the amount of Rs.20,30,896/- @9.55% p.a. simple interest whenever it falls due, from 1st July 2020 to till realization.

26/3/21

(I.F BIDIRI)
Adjudicating Officer

9) under Secretary section