



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ 4217

ಪುಟ ಸಂಖ್ಯೆ 4

ವಿಷಯ Usha Subbanna

Nitesh Hyde Park

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP 4217

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Complaint under Section 31 of RERA Act has been initiated by the complainant Mrs. Usha Subbanna who is the buyer in the project under "Nitesh Hyde Park Phase II" 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 28/05/2020 by directing the developer to refund the amount of Rs.1,04,84,355/- together with simple interest @ 9% per annum on the respective amount paid on 30/04/2017 and @ 2 above the MCLR of SBI commencing from 01/05/2017 till the realization of entire amount.

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

According to him as on 30/09/2013 he had paid Rs.3,00,000/-. For which he has calculated the interest @ 9% for annum from 30/09/2013 till 30/04/2017 which came to 1308 days and interest comes as Rs.96,756/-.

He has paid Rs.13,92,825/- On 30/10/2013 therefore he has calculated separate interest on said sum from 30/10/2013 till 30/04/2017 @ 9% for annum which comes Rs.4,38,911/-



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He has paid Rs.16,92,825/- on 26/11/2013 therefore he has calculated separate interest on said sum from 26/11/2013 till 30/04/2017 @ 9% for annum which comes Rs.5,22,178/-

He has paid Rs.3,38,565/- on 03/12/2013 therefore he has calculated separate interest on said sum from 03/12/2013 till 30/04/2017 @ 9% for annum which comes Rs.1,03,851/-

He has paid Rs.3,35,175/- on 27/01/2014 therefore he has calculated separate interest on said sum from 27/01/2014 till 30/04/2017 @ 9% for annum which comes Rs.98,265/-

He has paid Rs.4,18,967/- on 20/02/2014 therefore he has calculated separate interest on said sum from 20/02/2014 till 30/04/2017 @ 9% for annum which comes Rs.1,20,352/-

He has paid Rs.3,35,175/- on 29/03/2014 therefore he has calculated separate interest on said sum from 29/03/2014 till 30/04/2017 @ 9% for annum which comes Rs.93,224/-

He has paid Rs.3,41,883/- on 05/05/2014 therefore he has calculated separate interest on said sum from 05/05/2014 till 30/04/2017 @ 9% for annum which comes Rs.91,971/-



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He has paid Rs.4,22,406/- on 20/06/2014 therefore he has calculated separate interest on said sum from 20/06/2014 till 30/04/2017 @ 9% for annum which comes Rs.1,08,841/-

He has paid Rs.4,27,467/- on 05/09/2014 therefore he has calculated separate interest on said sum from 05/09/2014 till 30/04/2017 @ 9% for annum which comes Rs.1,02,029/-

He has paid Rs.36,92,998/- on 06/11/2014 therefore he has calculated separate interest on said sum from 06/11/2014 till 30/04/2017 @ 9% for annum which comes Rs.8,25,005/-

He has paid Rs.7,89,204/- on 30/01/2015 therefore he has calculated separate interest on said sum from 30/01/2015 till 30/04/2017 @ 9% for annum which comes Rs.88,736/-

He has paid Rs.7,89,204/- on 16/03/2016 therefore he has calculated separate interest on said sum from 16/04/2015 till 30/04/2017 @ 9% for annum which comes Rs.79,785/-

He has paid Rs.3,60,117/- on 25/04/2016 therefore he has calculated separate interest on said sum from 25/04/2016 till 30/04/2017 @ 9% for annum which comes Rs.32,854/-

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ಯಾಚಾರಿ Usha Subbamma
Nitesh Alydeen Park

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He has paid Rs.2,32,642/- on 04/05/2016 therefore he has calculated separate interest on said sum from 04/05/2016 till 30/04/2017 @ 9% for annum which comes Rs.20,708/-

It is means upto 30/04/2017 he had paid Rs.1,04,84,355/-. For which he his entitled for delay compensation.

The developer also directed to pay interest @ 2% above the MCLR of SBI on the total amount paid by him from 01/05/2017. Now the complainant calculated @8.15% + 2%. On the total amount of Rs.1,04,84,355/-. From 01/05/2017 till 23/11/2020 which total comes to Rs.38,19,321/-.

Therefore the total interest payable by the developer from 30/09/2013 to till 23/11/2020 Rs.28,23,474+38,19,321= 66,42,795/-.

The developer is also directed to return Rs.13,85,097/- to the complainant which is has paid to the developer towards GST.

Total amount due from the developer is Rs.1,04,84,355+28,23,474+38,19,321+13,85,097+ 5000/- which comes to Rs.1,85,17,247/-.

The complainant has given a representation with memo of calculation since the developer failed to comply with the same.



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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 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 28/02/2020 considering this amount as arrears of land revenue and has to be recovered from the developer. Hence the following



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Nitesh Hyderabad Park

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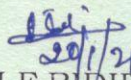
ORDER

By acting under Section 40(1) of the RERA Act, read with Rule 25, the amount payable of Rs. Rs.1,85,17,247/- which is treated as arrears of land revenue from the developer "Nitesh Housing Developers Pvt. Ltd.," and the same 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 till the 23/11/ 2020.

Office is hereby directed to mention in the recovery warrant

a. As to the recovery of future interest on the amount of Rs.1,04,84,355/- @10.15% p.a. whenever it falls due, from 24th November 2020 to till realization.


(I.F. BIDIRI)
Adjudicating Officer