



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ CMP. 5128

ಪುಟ ಸಂಖ್ಯೆ 7

ವಿಷಯ Chaitra Stephan Gudino

Ashwani Aaeesha A wing

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ಬವುಣೆ ಮತ್ತು ಆದೇಶಗಳು

Date:21/01/2022

Execution Order :

CMP 5128

Complaint under Section 31 of RERA Act has been initiated by the complainant Sri.CHAITRA STEPHAN GUDINO who is the buyer under the project "ASWANI AAEESHA A WING" which is developed by "M/s. ASWANI PROPERTIES,," This complaint was filed by the complainant claiming return / refund the respective amounts. After hearing the parties, order was passed on 06/04/2021 by directing the developer to pay return / refund the respective amounts and along with interest there -on by the way of compensation @9% per annum, till 30/04/2017 and from 01/05/2017 @2% above the MCLR of SBI till payment of the entire amount.

The complainant has calculated the total amount paid by him was on 03/01/2014 is Rs.27,75,170/- from 03/01/2014 to 22/04/2016 with interest of @ 9% per annum on the said amount which interest totally comes to Rs.4,88,941/-.

The complainant has calculated the amount paid by him from 03/01/2014 is Rs.27,75,170/- with interest @9% per annum above the MCLR of SBI on the said amount paid by him from 01/05/2017 to 20/01/2022 which comes to Rs.12,76,696/-.



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Therefore the total interest payable by the developer from 03/01/2014 to 20/01/2022 is Rs.17,65,637/-.

Total amount due from the developer is Rs.45,40,149/-.

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 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 06/04/2021 considering this amount as arrears of land revenue and has to be recovered from the developer. Hence the following



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ORDER

By acting under Section 40 of the RERA Act, read with Rule 25, the amount payable of Rs. Rs. Rs.45,40,149/- Which is treated as arrears of land revenue from the developer "M/s. ASWANI PROPERTIES.," 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 up to 20/01/2022.

Office is hereby directed to mention in the recovery warrant

a. As to the recovery of future interest on the amount of Rs. Rs.27,75,170/- @2% above the MCLR of SBI simple interest whenever it falls due, from 21st January 2022 to till realization.



(I.F BIDIRI)
Adjudicating Officer