ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Cmp. No: 3982 ಪುಟ ಸಂಖ್ಯೆ -10-

ವಿಷಯ Savitha H S

Nitesh Hydepoork Phase II

ಕಂಡಿಕೆ ಸಂಖ್ಯೆ	ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

Date: 16/07/2022

32)

Execution Order : CMP/190823/0003982

Complaint under Section 31 of RERA Act has been initiated by the complainant **"SAVITHA H.S** who is the buyer under the project **"NITESH HYDE PARK PHASE II "** which is developed by **"NITESH HOUSING DEVELOPERS PRIVATE LIMITED".** This complaint was filed by the complainant claiming compensation. After hearing the parties, order was passed on 23/12/2019. The developer is hereby directed to pay delay compensation in the form of interest towards purchase of flat @9 on the total amount paid up to July 2015 till 30/04/2017 and also @2% above the MCLR of SBI on the total amount paid by the possession is delivered after obtaining the occupancy certificate.

33) According to him as up to July 2015 he had paid Rs.1,22,43,073/- for which he has calculated the interest @9% for annum from July 2015 to 30/04/2017 which interest comes as Rs.20,20,107/- and also @ 2% above the MCLR of SBI for annum from May 2017 to till 15/07/2022 which interest comes as Rs.63,97,928/-.

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

35) Total amount due from the developer which comes is Rs.84,23,035/-

36) 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.

ಕಡತ ಸಂಖ್ಯೆ Cmp.No: 3982 ಪುಟ ಸಂಖ್ಯೆ -11-

ವಿಷಯ Savitha H.S
Nilesh Hydepark Phase II

ಕಂಡಿಕೆ ಸಂಖ್ಯೆ	ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

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 23/12/2019 considering this amount as arrears of land revenue and has to be recovered from the developer. Hence the following

ORDER

33 By acting under Section 40 of the RERA Act, read with Rule 25, the amount payable of Rs.84,23,035/- Which is treated as arrears of land revenue from the developer **"NITESH HOUSING DEVELOPERS PRIVATE LIMITED".** 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 July 2022.Office is hereby directed to mention in the recovery warrant.

As to the recovery of future interest on the amount of Rs. Rs.1,22,43,703/- @2% per annum above the MCLR of SBI simple interest whenever it falls due, from 16/07/2022 to till realization.

(I.F BIDIRI)
Adjudicating Officer