



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ CMP No. 6485

ಪುಟ ಸಂಖ್ಯೆ - 6 -

ವಿಷಯ Shashank Deepak Joshi
Vivansaa Aurigaa

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

Date:21/01/2023

Execution Order : CMP/200831/0006485

Complaint under Section 31 of RERA Act has been initiated by the complainant **"SHASHANK DEEPAK JOSHI"** who is the buyer under the project **"VIVANSAA AURIGAA"** which is developed by **"VIJCON PROPERTIES"**. This complaint was filed by the complainant claiming refund with interest. After hearing the parties, order was passed on 16/11/2021 by directing the developer to return Rs.59,02,000/- to the complainant. The developer is liable to pay simple interest @9% per annum on the respective amounts paid on the respective dates till 30/04/2017. Further the developer is directed to pay simple interest @ 2% above MCLR of SBI on the respective amounts paid on the respective dates of receipt of such amounts till payment of the entire amount.

According to him he has paid Rs 59,02,000/- which interest of @ 9% per annum on the said amount which interest totally comes from 13/10/2015 to till 30/04/2017 is Rs.7,96,770/- and @ 2% above the MCLR of SBI for annum from 01/05/2017 to till 19/01/2023 which interest comes as Rs.30,10,020/-.

The developer is also directed to pay Rs.5000/- as cost of this case.Total amount due from the developer which comes is Rs 97,13,790/-

The complainant has given a representation with memo of calculation on 20/01/2023, since the developer failed to comply with the same.

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;



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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 16/11/2021 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 97,13,790/-. Which is treated as arrears of land revenue from the developer "**VIVANSAA AURIGAA**" 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 19/01/2023. Office is hereby directed to mention in the recovery warrant. As to the recovery of future interest on the amount of Rs. Rs.59,02,000/- @2% per annum above the MCLR of SBI simple interest whenever it falls due, from 20/01/2023 to till payment of the entire amount.

Bidiri
21/1/23

(I.F BIDIRI)

Adjudicating Officer