



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ

CMP No. 2295

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CONY LOUIS DSILVA

Nitesh Columbus Square Phase-II

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ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

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Date: 21.09.2023

Execution Order : CMP/190417/0002295

Complaint under Section 31 of RERA Act has been initiated by the complainant **"CONY LOUIS DSILVA"** who is the buyer under the project **"NITESH COLUMBUS SQUARE PHASE II"** which is developed by **"NITESH HOUSING DEVELOPERS PRIVATE LIMITED"**. This complaint was filed by the complainant claiming refund with interest. After hearing the parties, order was passed on 19.09.2019 by directing the developer to return Rs.20,00,000/- to the complainant with interest 9% per annum on the respective amount paid on the respective date till 30.04.2017 and to pay simple interest @ 2% above MCLR of SBI commencing from 01.05.2017 till the realisation of entire amount.

According to him he has paid Rs 20,00,000/- @ 9% per annum on the respective amount paid on the respective date from 07.06.2014 to 30.04.2017, and @ 2% above the MCLR of SBI per annum from 01.05.2017 to 28.07.2023 , which interest comes as Total Rs 96,55,886/-.

According to him the discharge bank loan with its interest, EMIs due, EMI paid by the complainant on behalf of the developer and any other statutory charges totally its comes to Rs 82,97,047/-.

The developer is also directed to pay Rs.5000/- as cost of this case. The complainant received the amount from respondent Rs 6,00,000/- dt: 26.07.2022. @ 2% above the MCLR of SBI per annum interest from 27.07.2022 to 28.07.2023 is 10,45,098/- Total amount due from the developer which comes is Rs 2,04,03,031/-



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-26-

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Cony Louis Diswa

Nitesh Columbus Samsara Phase - II

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The complainant has given a representation with memo of calculation, 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;

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 19.09.2019. 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 2,04,03,031/-. 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.



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CMP No. 2295

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-27-

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Niteesh Columbus Square phase - II

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The above amount has been calculated up to 28.07.2023. Office is hereby directed to mention in the recovery warrant. As to the recovery of future interest on the amount of Rs. 20,00,000/- @2% per annum above the MCLR of SBI simple interest whenever it falls due, from 29.07.2023 to till realization.

(I.F BIDIRI)
Adjudicating Officer