



# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Cmp. No : 2037

ಪುಟ ಸಂಖ್ಯೆ - 13 -

ವಿಷಯ Shobha A

Nitesh Estates Ltd.,

ಕಂಡಿಕೆ  
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

**Date: 13.02.2024**

**Complaint No: CMP/190201/0002037**

**COMMON ORDER ON MEMO DATED: 01.08.2023 FOR DISMISSAL  
OF EXECUTION CLAIM & APPLICATION FILED U/O XXI RULE II  
R/W SEC. 151 CPC & MEMO OF SETTLEMENT DATED:  
23.11.2023**

The respondent has filed the memos dated: 01.08.2023 & 23.11.2023 praying to dismiss the execution claim as matter has been settled, consequently the respondent has paid an amount of Rs. 4,00,000/- through DD. No.374304 dated: 02.12.2020 and has also filed application U/O XXI Rule II R/w Sec.151 CPC stating the similar fact mentioned in the memos and praying to issue showcase notice to the complainant/decree holder asking as to why payment made through DD to the complainant shall not be adjusted against the judgment/order passed in this case as full and final satisfaction of the amount mentioned therein as per the memorandum of settlement (here-in-after referred as MOS) dated: 03.12.2020. The notice of said memos and the application were repeatedly issued to the complainant/decree holder but complainant/decree holder either not appeared or not responded, hence objections to these memos and applications taken as not filed.

Heard learned counsel for the respondent. The argument of the complainant/decree holder taken as nil. Perused the records.

The learned Adjudicating Officer (here-in-after referred as AO) has passed the judgment/order dated: 13.03.2020 in complaint No. CMP/190201/0002037 whereby allowed the complaint and directed the developer to return the collected amount to the complainant with interest as mentioned therein. Subsequently the complainant along with Mr. Sathyanaryan Rao A.G., and the respondent have entered into settlement as per the MOS dated: 03.12.2020, copy of which is produced, where-under the complainant along with Mr. Sathyanaryan Rao A.G in all have received Rs. 4,00,000/- through DD mentioned in

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## ಕರ್ನಾಟಕ ಲಿಯಲ್ ಎನ್ಫೋರ್ಸ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp.No: 2037

ಪುಟ ಸಂಖ್ಯೆ - 14 -

ವಿಷಯ Shobha . A

Nitesh Estates Ltd.,

ಕಂಡಿಕೆ  
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

the copy of MOS towards full and final satisfaction of complainant's claim in this case. The learned Advocate for the respondent submits these facts. Admittedly complainant along with Mr. Sathyanaryan Rao A.G., have signed on MOS (copy of MOS along with copy of DD furnished). The complainant and Mr. Sathyanaryan Rao A.G., are educated, under the circumstances it is presumed that they knowing very well that the amount received under the MOS dated: 03.12.2020, is towards full and final satisfaction of the claim amount, in connection with aforesaid complaint and have signed the said documents, as such, the memos and application are liable to be allowed. Thus I proceed to pass the following:

### ORDER

The memo dated: 01.08.2023 for dismissal of execution claim & application filed U/O XXI Rule II R/W Sec. 151 CPC & memo of settlement dated: 23.11.2023, are allowed and the execution proceedings in connection with the above complaint are closed, holding that the claim of the complainant under the judgment/order dated 13.03.2020 in complaint No. CMP/190201/0002037 has been fully satisfied and there is nothing to be recovered. The RRC if any issued in this case is ordered to be recalled

Issue intimation regarding this order to both the parties.

(Typed to my dictation, directly on the computer by the DEO, verified, corrected and pronounced by me on 13.02.2024)

  
(I.F. BIDARI)

Adjudicating Officer-1  
K-RERA.

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
Karnataka Real Estate Regulatory Authority Bangalore  
ನಂ:1/14, ನೆಲ ಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

**BEFORE ADJUDICATING OFFICER, RERA**

**BENGALURU, KARNATAKA**

**Presided by Sri K PALAKSHAPPA**

**Adjudicating Officer**

**Date: 13<sup>th</sup> MARCH 2020**

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|----------------------|---|
| <b>Complaint No.</b> | <b>CMP/190201/0002037</b>   |
| <b>Complainant</b>   | Shobha A,<br>4BM-402, 4 <sup>th</sup> B Main,<br>4 <sup>th</sup> A Cross, OMBR Layout<br>Bentaluru-560043 |
| <b>Opponent</b>      | Nitesh Estates Limited<br>Nitesh Timesquare,<br>Level 7, #7, M.G.Road,<br>Bengaluru-560001                |

**"J U D G E M E N T"**

1. Shobha A, the Complainant has filed this complaint against unregistered project bearing complaint no.CMP/190201/0002037 under Section 31 of RERA Act against the project 'Nitesh Virgin Islands' developed by Nitesh Estates Limited, wherein the developer seeking for the relief of refund of amount.
2. In pursuance of the notice issued by this authority, the complainant was appeared in person and respondent has not at all appeared.
3. I have heard arguments of the complainant and posted the matter for judgment.
4. The points that arise for consideration are:

*Shobha*

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
**Karnataka Real Estate Regulatory Authority Bangalore**

ನಂ:1/14, ನೆಲ ಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

- a. Whether the complainant is entitled for the relief as prayed in the complaint?
- b. If so, what is the order?

5. My answer to the above point is in the affirmative for the following

**REASONS**

6. The complainant has sought for refund of his amount of Rs.4,00,000/- . According to the complainant the project was commenced in the month of October 2014, but now the project is cancelled. As per Sec.19(4) of the Act, the developer is either to compensate or to refund the amount to the consumer even though his project is abandoned for any reasons. The letter produced by the complainant discloses that Rs.4,00,000/- has been received in the month of October 2014 but now we are in the year 2020 , but not progress shown by the developer. Therefore, the complainant is entitled for the amount. However, a cheque has been issued on 31/08/2019 for a sum of Rs.4,00,000/-, but it was not deposited. Therefore, the complainant is entitled for the amount with interest.
7. Before passing the final order I would like to say that as per section 71(2) of RERA the complaint shall be disposed off by the Authority within 60 days from the date of receipt of the complaint. The said 60 days be computed from the date of appearance of the parties. This complaint was filed on 10/02/2019. The developer has not at all appeared means the question of delay does not arise. Moreover after receipt of this complaint the Secretary has taken up the matter for registration of the project. Ultimately on 18/12/2019 this complaint is transferred from Secretary. With this observation, I proceed to pass the following.

*[Handwritten Signature]*  
13/03/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
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3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

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**ORDER**

- a. The Complaint filed by the complainant bearing No. CMP/190201/0002037 is hereby allowed.
- b. The developer is hereby directed to return an amount of Rs.4,00,000/- to the complainant with simple interest @ 9% per annum from 27/10/2014 till 30/04/2017 and @ 2% per annum simple interest above MCLR of SBI commencing from 01/05/2017 till realisation of the entire amount.
- c. The complainant is hereby directed to execute cancellation deed after realisation of entire amount.
- d. The developer shall also pay Rs.5,000/- as cost of the petition.
- e. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 13/03/2020).

(K.Palakshappa)  
Adjudicating Officer

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