



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Cmp.No : 3920

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ವಿಷಯ

Smt. Sangeetha Y Rajagopal

Nitesh Hyde Park Phase I

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ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP- 3920

30.08.2023

As per the request of the Smt. Leela R Bhat, GPA holder of the complainant and Sri. Harish Kumar MD Authorized Signatory of the respondent, the execution proceedings in the above case is taken-up for amicable settlement, in the National Lok Adalat to be held on 09.09.2023.

The Smt. Leela R Bhat, GPA holder of the complainant appeared through What'sApp Video call and Sri. Harish Kumar M.D Authorized Signatory of the respondent present, in the pre-Lok-Adalat sitting held on 30.08.2023, the dispute between the parties with regard to the execution proceedings has been settled between the parties and a joint memo dated:14.07.2023 has already being filed by the parties which is on record. The settlement entered between the parties is voluntary and legal one and as per which the complainant has no further claims against the respondent whatsoever in the case. Therefore in view of aforesaid settlement entered in the pre-Lok Adalat in terms of the joint memo dated: 14.07.2023, the execution proceedings in connection with above case are closed. The RRC if any issued against the respondent Nitesh Housing Developers Pvt. Ltd., presently known as NHDPL South Pvt. Ltd., is hereby recalled. Issue intimation to concerned DC about the recall of the RRC in this case. The matter referred to conciliators to pass award.

For NHDPL SOUTH PRIVATE LIMITED
MD Harish Kumar

30/08/23
Authorized Signatory

30/8/23

Judicial Conciliator.

Nitesh

Advocate Conciliator.

**BEFORE THE HON'BLE KARNATAKA REAL ESTATE REGULATORY
AUTHORITY AT BANGALORE**

CMP/190822/0003920

BETWEEN:

Mrs. Sangeetha Y Rajagopal

No. R-302, Mantri Paradise,
Arekere gate, Bannerghatta Road,
Bangalore - 560 076.

....Complainant

AND:

NHDPL South Private Limited

(formerly known NHDPL Properties

Private Limited and Nitesh Housing Developers Pvt. Ltd.)

No. 110, Level 1, Andrews Building,
M.G Road, Bengaluru - 560 001

....Respondent

JOINT MEMO

The Complainant herein had filed the above mentioned Complaint before this Hon'ble Authority seeking delivery of apartment with project completed in all aspects and compensation for delay which came to be allowed on 23rd December, 2019 by the Hon'ble Adjudicating Officer.

Subsequently, both Complainant and Opposite Party discussed between themselves with the spirit of arriving at an amicable resolution. After discussing all the issues and disputes, both parties have arrived at an amicable settlement.

Both the parties to the proceedings have no further claim / dues whatsoever against each other in respect of the execution claim involved in the subject complaint in any forum or court. If there is any claim by either of the parties, parties have agreed that the same be disposed off as settled by filing an appropriate memo in such cases.

For NHDPL SOUTH PRIVATE LIMITED

[Signature]
Authorised Signatory

[Signature]



In view of the above mentioned Settlement arrived at between the parties, the parties herein request this Hon'ble Adjudicating officer to record the settlement and dispose of the execution proceedings of the complaint as fully and finally satisfied.

Dated: 14/07/2023

Place: Bangalore

Reela R13hdt

COMPLAINANT

For NHDPL SOUTH PRIVATE LIMITED

nd/aurb kumar

Authorized Signatory

RESPONDENT

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Complaint No. CMP-3920


09.09.2023

Before the Lok-Adalat

The execution proceeding in this case is taken up before the pre-Lok-Adalat held on 30.08.2023. The joint memo filed by both the parties is hereby accepted. Hence, the dispute in connection with the execution of this complaint is settled before the Lok-Adalat as per joint memo dated: 14.07.2023. The said joint memo filed by the parties shall be part and parcel of award/order.

The execution proceedings in this complaint referred above stands disposed off accordingly.


Judicial Conciliator.


Advocate Conciliator.

KARNATAKA STATE LEGAL SERVICES AUTHORITY
BEFORE THE LOK ADALAT
IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU

DATED: 09TH DAY OF SEPTEMBER 2023

: CONCILIATORS PRESENT:

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Ms. Likitha T. A

..... Advocate Conciliator

COMPLAINT NO: CMP/190822/0003920

Between

Mrs. Sangeetha Y Rajagopal

..... Complainant

(Rep. by Smt. Leela R Bhat, GPA holder of complainant)

AND

M/s. Nitesh Housing Developers Private Limited

.....Respondent

Presently known as NHDPL South Pvt. Ltd.,

(By: Mr. Harish Kumar M D,

Authorized Signatory of the Respondent)

Award

The dispute between the parties with regard to execution proceedings in the above case having been referred for determination to the Lok Adalat and the parties having compromised/settled the dispute in connection with execution proceedings in the matter during pre Lok Adalat sitting held on 30.08.2023, as per the joint memo dated: 14.07.2023 which is on record, same is accepted. The settlement entered between the parties is voluntary and legal one.

The execution proceedings in the case stands disposed off as per the joint memo and joint memo is ordered to be treated as part and parcel of the award.


Judicial conciliator


Advocate conciliator

BEFORE ADJUDICATING OFFICER RERA

BENGALURU, KARNATAKA

Presided by:- Sri K.PALAKSHAPPA

Adjudicating Officer.

Complaint No.CMP/190822/0003920

DATE 23rd DECEMBER 2019

Complainants : Sangeetha Y Rajagopal
R-302, Manthri Paradise Apartments
Arekere Gate, Bannerghatta Main Road
Bengaluru-560 076
Rep. by Sri Janardhan Reddy, Advocate

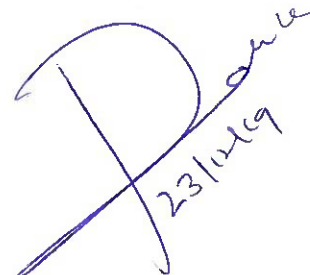
AND

Opponent : Nitesh Housing Developers Private
Limited, No.8, 7th Floor, Nitesh
Timesquare, Mahatma Gandhi Road
Bengaluru-560 001
NHDPL Properties Pvt.Ltd.,
Having its registered office at No.110,
level-I, Andrews building, M.G.Road,
Bengaluru-560001

(This address is mentioned as per the address given by the
respondent in his objection statement)

JUDGEMENT

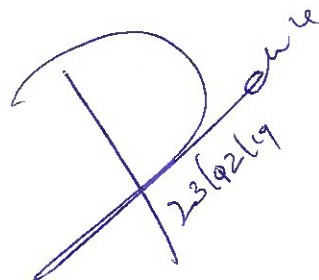
1. Sangeetha Y Rajagopal has filed this complaint under Section 31 of RERA Act against the project " NITESH HEDE PARK PHASE 11" developed by Nitesh Housing Developers Private Limited,, (now it is

A handwritten signature in blue ink, followed by the date 23/12/19.

changed as NHDPL Properties Pvt.Ltd.,) bearing Complaint no. CMP/190822/0003920.The facts of the complaint is as follows:

1. The complainant submit that M/s NSL SEZ (Hyderabad) Private Limited along with the respondent entered into an agreement of sale dated 22.04.2013 with the complainant with respect to .22% undivided share, right, title, interest (423.12 sq. ft) in the converted non ? agricultural residential land formerly bearing Sy No. 49, and presently bearing Bruhat Bengaluru Mahanagara Palike Khatha No. 1225/49 situated at Hulimavu Village, Bagur Hobli, Bangalore South Taluk measuring 05 Acres 17 guntas. Copy of the agreement of sale is produced herewith as Document No.1 2. The respondent has also executed a construction agreement dated 22.04.2013 in favor of the complainants pursuant to the aforesaid agreement of sale for constructing a residential apartment bearing No. O-0103 in 1st Floor, O Block (previously known as Block F), in Wing ?II?, within the project ?Nitesh Hyde Park? measuring 1236 sq. feet of super built up area together with right to use One top covered car parking space. A copy of the construction agreement is produced herewith as Document No. 2 3. The complainants have paid a sum of on Rs. 73,58,308/- (Rupees Seventy three lakhs fifty eight thousand three hundred and eight only) under the agreement of sale and construction agreement: The receipts issued by the respondent acknowledging the receipts of the aforesaid amount is produced herewith as Document No. 3 4. The complainants submit that Clause 6 of the Construction agreement provides that the possession of the apartment will be delivered by the respondent to the complainants after completion of construction as far as possible on or before 31.12.2014 with six months grace period additionally. Therefore, in any event the possession of the apartment ought to have been delivered to the respondent on or before 30.6.2015. 5. The complainants submit that although the respondent have received and acknowledged the aforesaid payments both under the agreement of sale and construction agreements, the respondent has not delivered possession till date in spite of repeated requests.

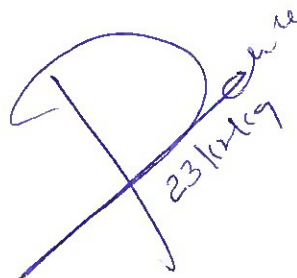
Relief Sought from RERA :Interest of eachmonths delay,
deliveryofappartment

A handwritten signature in blue ink, followed by the date 23/02/19.

2. In pursuance of the summons issued by this authority the complainant was present through her advocate Sri Janardhan Reddy, who filed the vakalath on her behalf. The developer has appeared through his representative.
3. Heard the arguments after filing objections to the averments made in the complaint.
4. The point that arisen for my consideration was:
is the complainant entitled for the relief as sought in her complaint ?
If so what is the order?
5. My answer is affirmative for the following

REASONS

6. The complainant has filed this complaint U/s 31 of the RERA Act claiming for delay compensation. The respondent Developer has appeared through his representative and filed objections.
7. The complainant has booked the flat bearing No.O-0103. In this regard, the parties have entered into agreement on 22.04.2013. As per the agreement the Developer was expected to complete the project on or before 30.06.2015 including the grace period.
8. The learned counsel for the complainant submitted that the complainant has paid a total sum of Rs.73,58,308/- towards purchase of the flat. It is the case of the complainant that Developer has failed to complete the project within due time as agreed in the agreement. It is the submission that as per Sec.18 of the RERA Act, the Developer has to compensate the complainant for the delay caused in completing the project.
9. The respondent has filed its objection statement denying the case of the complainant. Of course, the respondent Developer has taken so many contentions in his objection statement. It is his submission that delay was caused because he had terminated the services of the Contractor who filed suit and obtained the order of injunction. He


23/04/19

He has also stated that there was a transporters strike; there is delay in giving electricity connection etc., Further he also stated that he found rocks at the time of excavation work. For these reasons it is the case of the Developer that the delay was not intentional and all of them are founded on reasonable and excusable reasons.

10. I would say that till today, the Developer has not received Occupancy Certificate. The due date was in the month of June 2015. More than four years is already elapsed, even then the Developer is not able to get the Occupancy certificate means his project is not completed as on the date of the filing of this complaint and also even today. Therefore, as per the observation made by the Hon'ble Supreme Court in Pioneer Case, the delay in more than two years from the due date, then automatically the complainant is entitled for delay compensation.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
Civil Appeal No. 12238/2018,
Pioneer Urban Land & Infrastructure Ltd.
V/s
Govindan Raghavan

which reads as under:

Para 6.1: In the present case admittedly, the appellant builder obtained the occupancy certificate almost two years after the date stipulated in the apartment buyer's agreement. As a consequence, there was failure to handover possession of the flat to the respondent flat purchaser within a reasonable period. The occupancy certificate was obtained after a delay of more than 2 years on 28/08/2018 during the pendency of the proceedings before the National Commission. In *LDA v. M.K. Gupta*, this court held that when a person hires the services of a builder, or a contractor, for the construction of a house or a flat, and the same is for consideration, it is a "service" as defined by Section 2(1)(o) of the Consumer Protection Act, 1986. The inordinate delay in handing over possession of the flat clearly amounts to deficiency of service.



In Fortune Infrastructure v. Trevor D'Lima, this court held that a person cannot be made to wait indefinitely for possession of the flat allotted to him, and is entitled to seek refund of the amount paid by him, along with the compensation.

11. Hence, question of dismissing the complaint for the reasons stated by the Developer holds no water.
12. Before passing the final order I would say that as per S.71 (2) RERA, the complaint will have to be closed within 60 days from the date of filing. In this case the complaint was filed on 22/08/2019. 60 days be computed from the date of appearance of the parties. In the present case, the parties have appeared on 01/10/2019. After taking the objection statement the argument was heard and posted for judgment. Hence the complaint is being disposed of with some delay. With this observation I proceed to pass following order.

ORDER

- a. The complaint no. CMP/190822/0003920 is allowed.
- b. 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 complainant commencing from May 2017 till the possession is delivered after obtaining the occupancy certificate.
- c. The Developer is also directed to pay Rs.5,000/- as cost of this petition.

Intimate the parties regarding this order.

(Typed as per dictated, corrected, verified and pronounced on 23/12/2019).

(K.Palakshappa)
Adjudicating Officer

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