

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**

**K.PALAKSHAPPA, Adjudicating Officer**

**Date: 19<sup>th</sup> FEBRUARY 2020**

|                                |  |
|--------------------------------|--|
| 1. Complaint No. & Complainant | <b>CMP/190527/0003044</b><br>Jyothi Sidramshetty & Praveen Kumar Sidramshetty,<br>No.17,Mallikarjun Nilaya,<br>Siddeshwar Badavane, Near Ibrahimpur,<br>Bijapur-586109   |
| 2. Complaint No. & Complainant | <b>CMP/190513/0002968</b><br>Pavan Belaldalvar, Shrisha Belaldar<br>No.56, Kamala Nilaya, 1 <sup>st</sup> Cross, 5 <sup>th</sup> Main, Near Patalamma temple, BSK 5 <sup>th</sup> Stage, Subramanyapura,<br>Bengaluru-560061 |
| 3. Complaint No. & Complainant | <b>CMP/190426/0002785</b><br>Murthy A.R.V Sowmya M.Udupa,<br>No.501, D-1 Wing, Vedanth Complex, Varthak Nagar,<br>Thane West-400606,<br>Maharashtra  |
| 4. Complaint No. & Complainant | <b>CMP/190420/0002707</b><br>Ram Mohan H.S.<br>No.109, Nandi Forest View Apartment, Dwarkanagar, BDA Link Road, BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098   |

*[Handwritten Signature]*  
19/02/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

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| <b>5. Complaint No. &amp; Complainant</b> | <b>CMP/190420/0002645</b><br>Sundaresha G, Shwetha B.V<br>No.210, Forest View Apartment,<br>Dwarkanagar, BDA Link Road, BSK<br>5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098    |
| <b>6. Complaint No. &amp; Complainant</b> | <b>CMP/190422/0002730</b><br>Meenakshi, Prahalad D.S<br>No.111 Forest View Apartment,<br>Dwarkanagar, BDA Link Road, BSK<br>5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098       |
| <b>7. Complaint No. &amp; Complainant</b> | <b>CMP/190420/0002710</b><br>Naveen Bairy, Ramya A Alse<br>No.105, Forest View Apartment,<br>Dwarkanagar, BDA Link Road, BSK<br>5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru -560098  |
| <b>8. Complaint No. &amp; Complainant</b> | <b>CMP/190422/0002728</b><br>Smarthi Kamath, Pritesh Bhat<br>No.211, Forest View Apartment,<br>Dwarkanagar, BDA Link Road, BSK<br>5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098 |
| <b>9. Complaint No. &amp; Complainant</b> | <b>CMP/190426/0002775</b><br>Genial Pawan, Seema D Jogul<br>No.410, Forest View Apartment,<br>Dwarkanagar, BDA Link Road, BSK<br>5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098  |

*Devi*  
19/01/2020

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| <b>10. Complaint No. &amp; Complainant</b> | <b>CMP/190427/0002773</b><br>Sharada S Patil<br>No.292, 1 <sup>st</sup> Main, 1 <sup>st</sup> Cross,<br>Bharat Housing Societ Layout,<br>Chikkahallasandra,<br>Bengaluru -560061            |
| <b>11. Complaint No. &amp; Complainant</b> | <b>CMP/190420/0002711</b><br>Sridhar V.Pai, Shreya S.Pai<br>No.105, Forest View Apartment,<br>Dwarkanagar, BDA Link Road,<br>BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098   |
| <b>12. Complaint No. &amp; Complainant</b> | <b>CMP/190426/0002781</b><br>P.S.Chandrashekar, Puhpavathi<br>No.209, Forest View Apartment,<br>Dwarkanagar, BDA Link Road,<br>BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098 |
| <b>13. Complaint No. &amp; Complainant</b> | <b>CMP/190427/0002764</b><br>Sandeep G, Govindan S<br>No.308, Forest View Apartment,<br>Dwarkanagar, BDA Link Road,<br>BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098         |
| <b>14. Complaint No. &amp; Complainant</b> | <b>CMP/190426/0002789</b><br>Srinivas P.V, Guruprasad P.S<br>No.513, Forest View Apartment,<br>Dwarkanagar, BDA Link Road,<br>BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098  |

*Per*  
19/02/2020

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| <b>15. Complaint No. &amp; Complainant</b> | <b>CMP/190427/0002793</b><br>Priyanka S, Swaroop R<br>No.405, Forest View Apartment,<br>Dwarkanagar, BDA Link Road,<br>BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098  |
| <b>16. Complaint No. &amp; Complainant</b> | <b>CMP/190420/0002640</b><br>Shivakumar Panchananam<br>No.105, Forest View Apartment,<br>Dwarkanagar, BDA Link Road,<br>BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru-560098   |
| <b>17. Complaint No. &amp; Complainant</b> | <b>CMP/190426/0002777</b><br>Ambika K.Manjunath Y.N<br>No.509, Forest View Apartment,<br>Dwarkanagar, BDA Link Road,<br>BSK 5 <sup>th</sup> Stage, Channasandra,<br>Bengaluru -560098<br>Rep. by: Shri.E.Suhail Ahamed,<br>Advocate for all the complainants |
| <b>Opponent/Respondent</b>                 | <b>M/s Nandi Developers,</b><br>A.D.Narayana Reddy, Balakrishna G,<br>Mrs.Harshita Kumar, Ms.Twinkle<br>Gowda,<br>Nandi Vishwas,<br>Uttrahalli Main Road,<br>Bengaluru -560061<br>Rep. by: Shri.M.S.Chandrashekar,<br>Advocate                               |

### J U D G E M E N T

1. The complainants have filed all the above said complaints under Section 31 of RERA Act against five respondents making M/s Nandi Forest View, as 1<sup>st</sup> respondent and its partners viz., A.D.Narayana Reddy, Balakrishna G, Mrs.Harshita Kumar, Ms.Twinkle Gowda as respondents. I would say that Sri E.Suhail Ahamad, advocate has appeared on behalf of the complainants, accordingly, Sri M.S.Chandrashekar, advocate appeared on behalf of the developer. I would say that common written argument has been filed on behalf of the complainant in all the above cases. Similarly, the developer has filed common objections to all the complaints and submitted common arguments. Therefore, I am going to discuss the facts of the case which is applicable to the cases.
2. By looking into the complaints filed by the complainants, it goes to show that the developer has executed the sale agreement in favour of the complainants with an assurance to complete the project within 23 months from the date of agreement. But it is the allegation of the complainants that the developer has failed to complete the project within due time, therefore all the complainants have filed their respective complaints seeking for the delay compensation and also for the amenities. In the mean while, as per the submission made by the complainants the Asst. Executive Engineer attached to this authority has been appointed as Court Commissioner to inspect the building. Accordingly, he has inspected the project and gave his report.

*Devi*  
14/02/2020



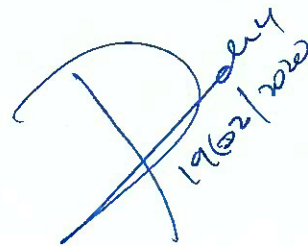
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3. The learned counsel for the respondents has strongly raised the objections to the report by alleging that the learned Court commissioner has exceeded the jurisdiction. However, during the course of argument it was submitted that the report filed by the Court commissioner may be considered in view of the allegations of the complainants and defence taken by the parties. Hence, I have heard the arguments on both sides.
4. The points that arise for my consideration are:
  - a. Whether the complainants are entitled for delay compensation as prayed in their complaints?
  - b. If so, what is the order?
5. My answer is partly affirmative for the following

**REASONS**

6. According to the complainants, the developer has introduced the project viz., 'Nandi Forest View' in the year 2016. The developer has executed the sale agreement in favour of the complainants. The sum and substance of the allegations made by the complainants is that the project has not been completed as agreed. Further, the project is having the following lacunae, which are very much important to have the peaceful enjoyment of their respective units.

  
19/02/2020

**Work not done as per specifications:**

1. In the apartment purchased by the complainants instead of Kajaria/Huida tiles substandard flooring tiles have been used;
2. DG back up to the apartment is not provided;
3. Polishing of main doors not completed
4. Grouting of tiles not done properly
5. Inferior quality 3 track balcony doors are installed which are not functioning properly & powder coating is peeling off;
6. In master bedroom of the apartment granite countertop washbasin with hot & cold water mixer not provided & countertop wash basin hot provided in any bath rooms;
7. Water pressure not adequate in wash rooms
8. Bescom meter not provided in individual occupant's name;
9. BWSSB water connection is not yet provided;

**INCOMPLETE WORK IN THE PROJECT**

1. Jogging track not completed.
2. Swimming pool not completed
3. CCTV for all common area across all the floors not completed;
4. Children's play area not provided
5. Gym room not completed
6. Party hall not completed
7. Only vitrified tiles are provided in place of agreed granite tiles in entrance lobby;
8. Ramps and Gates to the entrance and exit are not proper

*Devi*  
*19/02/2020*

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9. Exclusive security room at the entrance & exit are not provided
10. Sewage treatment plant not yet completed
11. The installed lift is not certified by Chief Electrical Inspector, Govt. of Karnataka;
12. For 84 Apartments capacity of overhead water storage tanks of 8000 litres is provided, which is inadequate.
13. Car parking space, not allotted and marked;
14. Fire extinguishers are not provided
15. All the ducts at the terrace level are not yet covered
16. Service ducts are not covered;
17. Balcony water drain pipe left open in parking lot;
18. For unit 8 & 9 series apartments, water controller kept in pent house.

7. However, the learned counsel for the complainants has given a memo stating that the developer has executed the sale deed on different dates to different complainants and also handed over the respective units to the respective complainants, the same reads as under:

| Sl. No | Complaint No. | Complainant name                                 | Date of agreement | Handover date  | Sale deed date |
|--------|---------------|--|-------------------|----------------|----------------|
| 1      | 2640/2019     | Shivakumar Panchananam                           | 5/08/2016         | July 2018      | 09/11/2018     |
| 2      | 2968/2019     | Pavan Belaldavar & Shrisha Belaldavar            | 17/04/2016        | March 2018     | 24/12/2018     |
| 3      | 2777/2019     | Ambika K & Manjunath Y.N                         | 24/10/2016        | September 2018 | 06/07/2018     |
| 4      | 3044/2019     | Jyothi Sidramshetty & Praveen Kumar Sidramshetty | 01/09/2017        | September 2018 | 16/11/018      |
| 5      | 2781/2019     | P.S.Chandrashekar & Pushpavathi                  | 12/02/2018        | August 2018    | 17/09/2018     |

*[Handwritten Signature]*  
 19/02/2020



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| 6  | 2785/2019 | Murthy ARV & Sowmya M Udupa              | 07/12/2017 | December 2018  | 31/08/2018 |
| 7  | 2730/2019 | Meenakshi & Prahalad D.S                 | 29/06/2016 | May 2018       | 09/11/2018 |
| 8  | 2710/2019 | G Naveen Bairy & Ramya A Alse            | 03/05/2017 | 03/11/2017     | 16/11/2018 |
| 9  | 2728/2019 | Smrathi Kamath & Pritesh Bhat S          | 15/06/2016 | December 2017  | 09/11/2018 |
| 10 | 2711/2019 | Sridhar V Pai & Shreya S Pai             | 11/10/2016 | September 2018 | 16/11/2018 |
| 11 | 2707/2019 | Ram Mohan N.S                            | 13/10/2016 | September 2018 | 29/11/2018 |
| 12 | 2789/2019 | Guruprasad Pacubidri Srinivas & Smitha G | 03/12/2017 | December 2018  | 10/07/2018 |
| 13 | 2645/2019 | Sundaresh G & Shwetha B.V                | 13/12/2017 | June 2018      | 10/12/2018 |
| 14 | 2793/2019 | Priyanka Swaroop & Swaroop R             | 19/03/2017 | 19/08/2018     | 09/11/2018 |
| 15 | 2775/2019 | Genial Pawan & Seema Jogul               | 25/02/2017 | 25/07/2018     | 16/11/2018 |
| 16 | 2773/2019 | Sharada S. Patil                         | 21/04/2016 | 21/03/2018     | 19/09/2018 |
| 17 | 2764/2019 | Pooja Sandeep & Sandeep G                | 29/05/2017 | 29/05/2018     | 10/09/2018 |

8. It means before filing these complaints, the respective sale deed has been executed and possession has also given to respective allottees. Even then the complainants have filed these complaints alleging that the developer has failed to provide amenities as listed as above. In view of the above situation, the reliefs sought by the complainants reads as under:

- a) Direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents to complete all the development work in the project as promised and shown in the brochure and also complete all the work in the schedule C Apartment as per the specifications in the agreements and the brochure.

*P*  
19/02/2020

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- b) Remove all the illegal construction in the project and obtain occupancy certificate for the apartment building and convey the proportionate undivided share to the complainants by including the area in which the illegal construction has been put up.
- c) Direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents to pay to the complainants interest on Rs.43,75,000/- (Rupees forty-three lakh seventy-five thousand only) for every month of delay caused (i.e., two months, 15 days delay) calculated from 01/09/2018 up to the date of completion of all development work in the project and the apartment purchased by the complainants;
- d) Direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents to pay a sum of Rs.5,00,000/- towards the compensation for the financial loss, mental agony suffered by the complainants on account of failure on their part to fulfil their obligations;
- e) Direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents to pay the interest on the loan taken by the complainants upto 31/03/2019 and order for payment of monthly interest till the date of completion;
- f) Take necessary action against the respondents under the relevant provisions of the Real Estate (Regulation and Development) Act, 2016,
- g) Direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents to facilitate information of apartment owners association; order for costs and
- h) Grant any other order/relief that this Hon'ble authority deems fit in the ends of justice and equity.

9. I would say that the sale deed has been executed and possession has been delivered to the respective complainants even before obtaining the occupancy certificate. The same is in violation of Section 17, 19(10) of RERA Act. But it is the case of the developer that the complainants have forced him to execute the sale deed even though there is no grant of occupancy certificate. I would say that it is the duty of the developer to execute the sale deed by

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19/02/2019

providing amenities in accordance with S. 17 of the Act as agreed in the agreement. Mere execution of sale deed will not absolve him with the liability to give compensation and from providing amenities. Further I would say that relief as claimed by the complainants cannot be granted. In the mean while, as per submission made by the learned counsel for the complainants as well as the developer, Asst. Executive Engineer attached to this office has been appointed as Court commissioner, after visiting the spot he has given his report stating that as under:

- a. Tiles used is local and unbranded one
- b. The joints of the tiles has not been properly grouted
- c. It is observed that inferior quality of balcony doors has been provided.
- d. Countertop wash basin with hot and cold water mixture has not been provided.
- e. In respect of flat no. 509 the ceiling height is 8ft. 5 inches in kitchen and there is variation in the ceiling height of the said flat where as the ceiling height of the other flat is varying from 9ft. to 9.3 inches

10. The complainants have alleged in their complaints that the developer may be directed to remove all the illegal constructions and to obtain occupancy certificate. Further the developer may be directed to form association. In the complaints it is alleged that, the developer has put up the commercial complex in the front portion of the project and also constructed pent house in the terrace floor. The same was also observed by the learned Court commissioner during his inspection. Of course the learned counsel for the developer has submitted that the Court commissioner cannot give report about the same.

*Paul*  
19/02/2020

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- 11.I would say that the complainants have sought for two kinds of reliefs. One is that they should be provided the amenities and secondly compensation. Of course the complainants have alleged that the developer has put up pent house in the terrace which is in violation of the building plan and commercial complex has been built which is also in violation of the building plan.
12. So far as power is vested with the Adjudicating officer to determine the compensation and non-providing amenities. The allegation made by the complainants regarding the amenities the developer shall provide all the amenities and compensation as prayed by them otherwise he is liable for consequences. However, with regard to violation as observed by the complainants as well as Court commissioner the authority will have to take action.
13. In support of the argument the learned counsel for the complainant has given some decisions. The Uttarkhand Real Estate Appellate Tribunal, Dehradun in Appeal No.07/2018 has made observation as under:

2.3- Complainant booked a flat with the promoter in January, 2012. He paid a sum of Rs.31,67,638 up to August, 2014 to the promoter. The possession of the flat was to be given within 15 months, up to April 2013, but, according to the complainant, no such possession has been given, 60 months having been elapsed, despite the fact that the entire money has been paid to the promoter. Besides that, there are many irregularities in construction of the flat. Letters were sent by the complainant to the promoter by e-mail, but these communications remained unanswered. Hence, the complainant prayed for refund of principal amount along with penalty, to be realized from the promoter.

2.4- Affidavit filed by the complainant indicated that the agreement was executed between the parties on 12/03/2012. Sale deed was executed on 26/08/2014. The basic price of the flat was Rs.20,50,000/-. According to

*Done*  
*12/03/2012*



Clause 2.3 of the agreement, 18% interest was to be paid by the promoter, if the possession is not delivered to the complainant in time, which might be extended for three months. There were certain promises held out to the complainant by the promoter, in the agreement, which have not been fulfilled.

2.5-Although sale deed in respect of flat in question was executed on 16/08/2014, but the promoter has not been able to obtain 'completion certificate' as yet. The progress of the project is also very slow. The complainant supplied the Photostat copies of the e-mail, sent by it to the promoter, on different dates, which remained unreplied. It has been indicated in para 2 of the sale deed that the entire money has been paid by the complainant to the promoter. The fact of delivery of possession of the flat is denied by the complainant. It was indicated that the complainant was impressed upon by the builder, to be ready for registration of sale deed, only because he (builder) wanted to save his capital gains tax complainant is emphatic in saying that 'occupancy certificate' of the project has not been obtained by the promoter and in the absence of 'completion certificate/occupancy certificate', the registration of sale deed is meaningless. Complainant referred to Regulation 3.9 of the Uttarkhand Building Bylaws and Regulation to say that it was incumbent upon the promoter to obtain completion certificate/ occupancy certificate' before handing over the possession to the allottee. Section 17 of the Act of 2016 also provides that physical possession of the flat is to be given by the promoter to the allottee. The complainant has also referred to a judgment rendered by National Consumer Commission in support of his submission. It was also brought to the notice of RERA that the promoter is

*[Handwritten Signature]*  
19/02/2020



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

*running a hotel in the apartment, without permission of the competent authority. Although promoter told before RERA that it has obtained permission from the appropriate authority, but n document in support thereof has been placed before such Authority. According to the letter dated 07/03/2018, given by Haridwar Roorkee Development Authority, the project of the promoter is incomplete, and therefore, no completion certificate could be given to him. According to the explanation appended to Section 3 of the Act of 2016, if any project is to be completed in phases, then each phase is deemed to be a project.*

14. With the assistance of the above decision, the learned counsel for the complainants wanted to say that the developer shall pay the compensation to all the complainants. I would say that as per Section 17 of the Act, the developer was expected to execute the sale deed after taking occupancy certificate. As per section 19(10) of the Act, the developer shall deliver the possession of the respective unit to the respective complainants after obtaining the occupancy certificate. Without the occupancy certificate if any person is inducted, then the said possession to be treated as illegal one. The same is supported from the decision of Hon'ble High Court of Karnataka passed in Writ Petition No.11522/2012 (LB-BMP) Clubbed with Writ No.739/2013 (LB-BMP) dated 01/10/2013. The relevant portion is as follows:

*The construction of buildings is governed by BMP building by-laws 2003. By-law 5.6 is with reference to grant of a occupancy certificate, which reads as follows:*

*5.6 Occupancy certificate: 5.6.1 (a) every person shall before the expiry of 5 years from the date of issuance of licence shall complete the construction or reconstruction of a building for which the licence was obtained and within one month after the completion of the erection of a building shall send intimation to the Commissioner in writing of*

*[Handwritten signature and date 19/02/2020]*

such complaint accompanied by a service in schedule III certify by a registered architect/engineer/supervisor and shall apply for permission to occupy the building. The authority shall decide after a physical inspection of the building whether the owner had obtained commencement certificate as per Sec.300 of KMC Act, 1976 and compliance regarding production of all required documents including clearance from Fire Service Department in the case of high rise flats at the time of submitting application and intimate the applicant within 30 days of receipt of the intimation whether the application for occupancy certificate is granted or rejected. In case, the application is accepted, the occupancy certificate shall be issued in the form given schedule IX provided the building is in accordance with sanctioned plan.

(b) The physical inspection means the authority shall had out whether building has been constructed in all respects of building by-laws, and includes inspection by the fire service department wherever necessary,

(c) if the construction or reconstruction of a building is not completed within 5 years from the date of issue of licence for such a construction, the owner shall intimate the authority, the stage of work at the expiry of 5 years. The work shall not be continued after expiry of 5 years without obtaining prior permission from the authority. Such construction shall be permitted. If the construction or reconstruction is carried out according to the licensed plan and if the authority is satisfied with at-least 75% of the permitted floor area of the building is completed before the expiry of 5 years. If not, the work shall be continued according to a fresh licence to be obtained from the authority.

5.6.2. For all high rise buildings, the work shall also be subject building inspection by the officers of the Karnataka State Fire Service Department and the occupancy certificate shall be issued only after obtaining the clearance certificate from the Director of Fire Services.

*Peru*  
*12/01/2019*

**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-560 027

10. If the building is completed constructed, then an occupancy certificate in terms of by-law 5.6 cannot be granted. However, a POC can be granted to a part of the building in terms of by-law, 5.7, which reads as follows:

5.7: occupancy or letting out of the new building: no person shall occupy or allow any other person to occupy in new building or part of a new building for any purpose whatsoever until occupancy certificate to such buildings or part thereof has been granted by an officer authorised to give such certificate, if in his opinion in every respect the building is completed according to the sanctioned plans and fit for the use for which it is erected. The authority may in exceptional cases (after recording reasons) or partial occupancy for different floors to a building.

11. By-laws-5.7: Postulates various requirements. The first is to no person to the building or part thereof, until an occupancy certificate to such a building or part thereof has been granted. Therefore, until and unless an occupancy certificate is granted, no building or part of it, can be occupied. Secondly, the grant of occupancy certificate shall be only after the opinion of the officer is to the effect that in every respect the builder or part thereof is complete, according to the plan sanction and that it is fit for use for which it was erected.

12(a). The first part of by-law 5.7 clearly narrates that no person can occupy the building or part thereof without an occupancy certificate. Admittedly, the persons have been inducted prior to grant of POC. It is contrary to law, the occupation of the building or part thereof is opposed to law. No person can be inducted in any manner whatsoever, without an occupancy certificate by corporation. Therefore, with all such persons who have been inducted prior to the grant of POC, are in illegal occupation.

*Peru*  
19/02/2020

15. In the present case, it is nobody's case that the developer has obtained the occupancy certificate. I would say that the developer may not be able to take the occupancy certificate in the nearer date since the allottees as well as the Court commissioner has alleged about the violation of the building plan. Whatever it may be when the developer has failed to provide the amenities he is bound to compensate the allottees.
16. By keeping it in mind, I would say that the Court commissioner has observed that energy meter has not been transferred to the owner of the flat. I would say that the complainants have made allegation regarding non providing amenities for which the developer has not properly answered. Therefore, the allegations according to the Court commissioner's report goes to show that the developer has failed to provide the amenities. By keeping open other allegations regarding violation I confine only with respect to compensation and giving amenities and hence, I am going to allow all these complaints in part since the developer has violated S.17 and 19(10) of the Act. The developer shall not execute the sale deed and deliver the possession when he has not received the occupation certificate. The project will be officially completed only when he is able to get the occupancy certificate. When he is not holding the occupancy certificate in his hand then he is liable for compensation and also liable for giving amenities. So far as other allegations are concerned the complainants have to approach the Authority for appropriate relief. Hence, I allow these complaints in part.
17. As per Section 71(2) of the Act the complaints shall be disposed of within 60 days. The said 60 days be computed from the date of appearance of the parties. The parties have appeared and during the pendency of these cases, commissioner has been appointed to visit the spot. His report was waited and finally after submitting the report I have heard the arguments on the report as well as on

*Peru*  
19/02/2024



**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

merits and as such there is some delay Hence, I proceed to pass the following :

**ORDER**

- a. The complaints filed in CMP/190527/0003044, CMP/190513/0002968 , CMP/190426/0002785, CMP/190420/0002707, CMP/190420/0002645, CMP/190422/0002730, CMP/190420/0002710, CMP/190422/0002728, CMP/190426/0002775, CMP/190427/0002773, CMP/190420/0002711, CMP/190426/0002781, CMP/190427/0002764, CMP/190426/0002789, CMP/190427/0002793, CMP/190420/0002640 and CMP/190426/0002777 are hereby allowed in part.
- b. The developer is directed to give delay compensation in the form of simple interest @ 2% above the MCLR of SBI on the principal amount paid by each complainant on their respective sale deed commencing from their respective sale deed till the possession is delivered after taking the occupancy certificate along with amenities.
- c. The developer is hereby directed to pay Rs.5,000/- as cost of each case.

(Typed as per Dictated, Verified, Corrected and Pronounced on 19/02/2020)

  
K.Palakshappa  
(Adjudicating Officer)