



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp.No: 3731

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ Bindu M Kuttu & A.V. Moideen Kuttu

Nitesh Hyde Parks Phase II

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP- 3731

08.02.2024

As per the request of the complainants and Ms. Shraddha Krishnan Authorized Signatory of the respondent, the execution proceedings in the above case are taken-up for amicable settlement, in the National Lok Adalat to be held on 09.03.2024.

The complainants joined over whatsapp video call and Ms. Shraddha Krishnan Authorized Signatory of the respondent present, in the pre-Lok-Adalat sitting held on 08.02.2024. The authorised person of the respondent has filed the copy of the authorization and filed withdrawal memo dated: 21.12.2023 presented on 08.02.2024. The dispute in connection with execution proceedings in the above case are settled as per the joint memo, stating that matter has been settled between the parties in terms of the joint memo dated: 21.12.2023 & presented on 08.02.2024 and entered between them filed during the pre Lok Adalat sitting on 08.02.2024. 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 above case. The dispute in connection with execution proceedings in the above case are settled between the parties in the pre-Lok Adalat sitting in terms of the joint memo dated: 21.12.2023 & presented on 08.02.2024. The execution proceedings in connection with above case are closed, as settled in the Lok Adalat. The execution proceedings in connection with above case are closed, as settled in the Lok Adalat. The RRC issued against the respondent is hereby recalled and office is directed to issue intimation accordingly to the concerned DC. The matter referred to conciliators to pass award.

For NORTHROOF VENTURES PVT. LTD

Authorised Signatory

Judicial Conciliator.

Advocate Conciliator.



ಕರ್ನಾಟಕ ಲಿಯಲ್ ಎನ್ಫೋರ್ಸ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp.No: 3731

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ Bindu M Kutty & A.V. Moideen Kutty


Nitesh Hyde Parks Phase II

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

As per letter No: KSLSA: 01/NLA/2024 dated: 04.03.2024, KSLSA, Bengaluru, the National Lok Adalat rescheduled to 16.03.2024 instead of 09.03.2024, hence conciliators to pass award on 16.03.2024 instead of 09.03.2024 as ordered earlier.


Judicial Conciliator


Advocate Conciliator

For NORTHCORP VENTURES PVT.LTD

Authorized Signatory

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

CMP/190801/0003731

BETWEEN:

Bindu M Kutty & Anr

...Complainant

AND:

Nitesh Housing Developers Pvt Ltd

No. 110, Level 1, Andrews Building,

M.G Road, Bengaluru - 560 001

(now known as Northroof Ventures Pvt Ltd)

...Respondent

JOINT MEMO

The Complainant herein had filed the above mentioned Case before this Hon'ble Authority seeking refund of booking amount /advance amount in connection with the **Flat Bearing No. F0301**, Nitesh Hyde Park Project which came to allowed vide Order dated **23rd December 2019**.

Subsequently, both Complainants and Respondents 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 parties, have now, resolved and settled all the disputes and issues, as the **Flat Bearing No. F0301** has been handed over and registered as vide Sale Deed on 22nd December, 2023. The same has been treated as the full and final settlement thereof.

No claims, differences and/or disputes are pending between the Parties and no further claims or disputes will be raised by either party in connection with the issues arising in the present Case.

The Respondents have handed over the **Flat Bearing No. F0301** at Nitesh Hyde Park and the same has been registered before the Sub Registrar as the full and final settlement.

Both the parties to the proceedings have no further claim whatsoever against each other in respect of the subject matter in connection with the above case before any forum or court relating to the subject matter of the above complaint. 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.

[Signature]

[Signature]

For NORTHROOF VENTURES PVT. LTD.
[Signature]
Authorised Signatory

In view of the handover and the settlement of **Flat Bearing No. F0301** at Nitesh Hyde Park Project the Parties to the Petition request this Hon'ble Court to record the same and dispose off the Petition pending in the above Case as fully and finally settled

PLACE: Bengaluru

DATED: 21 Dec 2023

 **COMPLAINANT**

For NORTHROOF VENTURES PVT. LTD

 **RESPONDENT**

Authorised Signatory

NOT AN OFFICIAL

For NORTHROOF VENTURES PVT. LTD

Authorised Signatory

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

CMP/190801/0003731

BETWEEN:

Bindu M Kutty & Anr

...Complainant

AND:

Nitesh Housing Developers Pvt Ltd

No. 110, Level 1, Andrews Building,

M.G Road, Bengaluru – 560 001

(now known as Northroof Ventures Pvt Ltd)

...Respondent

MEMO FOR WITHDRAWAL

11/12/23
The Complainants herein have settled their disputes with the Respondent out of the court as the possession of the Flat has been handed over to the Petitioner herein. The Respondent has completed and handed over the **Flat Bearing No. F0301** and thereafter also registered the Flat as on 22nd December 2023, vide its Sale Deed.

Both the parties to the proceedings state that they have no further claims whatsoever against each other in respect of the subject matter in connection with the above case before any forum or court relating to the subject matter of the above Complaint. 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.

In view of the compromise arrived at between the parties, the Complainant requests this Hon'ble Court to dispose off the above case as settled in the interest of justice and equity.

PLACE: Bengaluru

DATED: 21 Dec 2023

Bindu
COMPLAINANT

[Signature]
For NORTHROOF VENTURES PVT. LTD.

RESPONDENT

Authorised Signatory

Complaint No. 3731

16.03.2024

Before the Lok-Adalat

The execution proceedings in this case are taken up before the pre-Lok-Adalat held on 08.02.2024. The joint memo dated: 21.12.2023 & presented on 08.02.2024 in the pre Lok Adalat sitting by both the parties is hereby accepted. Hence, the dispute in connection with the execution proceedings of this complaint is settled before the Lok-Adalat as per joint memo dated: 21.12.2023 & presented on 08.02.2024. The 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: 16TH DAY OF MARCH 2024

: CONCILIATORS PRESENT:

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Ms. Sumathi M

..... Advocate Conciliator

COMPLAINT NO: CMP/190801/0003731

Between

Mrs. Bindu M Kutty &
Mr. A.V. Moideen Kutty

..... Complainants

AND

M/s. Nitesh Housing Developers Private Limited
Presently known as NHDPL South Pvt. Ltd.,
Now changed as Northroof Ventures Pvt. Ltd.,

.....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, as per the joint memo dated: 21.12.2023 & presented on 08.02.2024 filed during the pre-Lok Adalat sitting on dated:08.02.2024, 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: 21.12.2023 & presented on 08.02.2024 and said 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/190801/0003731
DATE 23rd DECEMBER 2019

Complainants : Bindu M Kutty & A.V.Moideen kutty
No.11, Block-1, Type-5
NIMHANS Quarters, BRC Campus
Hosur Road, Bengaluru-560 029
Rep. by Sri G.Vikram 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)

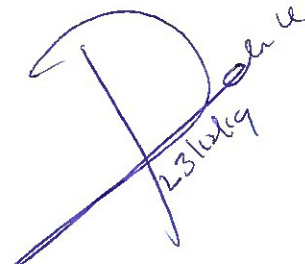
JUDGEMENT

1. Bindu M Kutty & A.V.Moideen kutty have jointly filed this complaint under Section 31 of RERA Act against the project "NITESH HEDE PARK PHASE 11" developed by Nitesh Housing Developers Private Limited,, (NHDPL Properties Pvt.Ltd.,)

Denil
23/12/19

bearing Complaint no. **CMP/190801/0003731**. The facts of the complaint is as follows:

The complainants submit that the complaint has to be filed online in the prescribed format. The fields provided for, in the online application, does not permit the complaint to be filed jointly although the agreement of sale and construction agreement have been executed jointly in favor of the complainants. In the said circumstances, the husband's name, age, Telephone No., email id and the identification card uploaded, in the fields provided for in the online application is that of the first complainant. The second complainant is the husband of the first complainant and is aged about 60 years. The Tel No. of the second complainant is 9449767550 and his email id is kutyavm@gmail.com 2. The complainants submit that M/s NSL SEZ (Hyderabad) Private Limited along with the respondent entered into an agreement of sale dated 15th October, 2013 with the complainants with respect to 0.32% undivided share, right, title, interest (622.36 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, Begur Hobli, Bangalore South Taluk measuring 05 Acres 17 guntas. Copy of the agreement of sale is produced herewith as Document No.1 3. The respondent has also executed a construction agreement dated 15th October, 2013 in favor of the complainants pursuant to the aforesaid agreement of sale for constructing a residential apartment bearing No.O-0301 in Third floor, O Block (previously known as Block F), in Wing II, within the project Nitesh Hyde Park measuring 1818 sq. feet of super built up area together with right to use One top covered car parking space and one open car parking space. A copy of the construction agreement is produced herewith as Document No. 2 4. The complainants have paid a sum of on Rs. 1,03,65,635/- (Rupees One Crore three lakhs sixty five thousand six hundred and thirty five only) under the agreement of sale and construction agreement: The statement issued by the respondent acknowledging the receipts of the aforesaid amount is produced herewith as Document No. 3 5. 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 31st of December 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 30th June 2015. 6. 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 in spite of repeated requests. 7. The complainant submits that the

A handwritten signature in blue ink, followed by the date '23/6/14' written vertically.

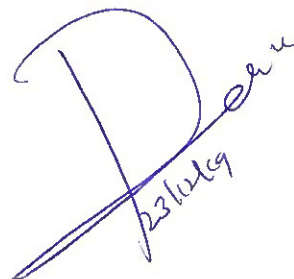
respondent vide its email dated 12th June 2019 has informed the allottees of F Block, that M/s NCCCL has given its final consent and quote to take up tower F and complete the internal block work, internal and external plastering, completion of all floors, common areas, lobbies, lift landings etc.

Relief Sought from RERA :Interest for every month's delay in delivery

2. In pursuance of the summons issued by this authority the complainants were present through their advocate Sri G.Vikram who filed the vakalath on behalf of the complainant. 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:
 - a. Are the complainants entitled for the relief as sought in their complaint ?
 - b. If so what is the order?
5. My answer is affirmative for the following

REASONS

6. The complainants have 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-0301. In this regard, the parties have entered into agreement on 15.10.2013. 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 complainants has submitted that the complainants have paid a total sum of Rs.1,03,65,635/- towards purchase of the flat.


23/12/19

9. 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.
10. 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 has also stated that there was a transporters strike, there is delay in giving electricity connection. 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.

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*

Pioneer
23/6/19

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. The above decision is very much helpful to the complainant to seek the relief as sought in the complaint and 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 01/08/2019. 60 days be computed from the date of appearance of the parties. In the present case, the parties have appeared on 24/09/2019. 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/190801/0003731 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 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