

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

Presided by: - Sri. K.PALAKSHAPPA
Adjudicating Officer.

Complaint No. CMP/180924/0001310

Date: 4th December 2018

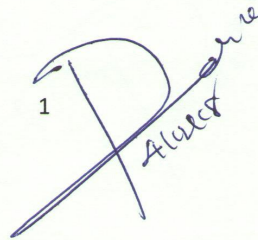
Complainant : RANGANATH M.A
Nextgen Legal services, No. 15, Roopa
Complex, 3rd Main, Chamrajpet,
Bangalore - 560013.

AND

Opponent : Skylark Ithaca
Ithaca Estates Pvt. Ltd.,
#37/21, Skylark Chambers,
Yellappa chetty Layout, Ulsoor Road
Bengaluru -560042

J U D G E M E N T

1. Ranganath MA represented by Madhumita GPA Holder has filed this complaint under Section 31 of RERA Act against the project "Skylark Ithaca" developed by Ithaca Estates Pvt. Ltd., bearing complaint no. CMP/180924/0001310. The brief facts of the complaint is as follows:

1

Alux

Ms.Madhumita had booked a flat in M/s. Skylark Ithaca in good faith during December 2014 by paying necessary payment. M/s. Skylark (Builder) had agreed to disburse the pre-emi reimbursement till the possession is handed over in the project SKYLARK ITHACA and from 2017 they are very irregular to reimburse the EMI payment, which has placed Madhumita in greater financial hardship, as confirmed by Sri.Ajit Lobo - GM (CRM) in mail trail sating that till may 2018 outstanding was Rs. 150749/- and thereafter they will regularize the monthly payment without fail from May 2018, but they failed to do so, from May 2018 till date further 4 EMI's amounting to Rs.104000/- is due from the builder, that is totally Rs.254749/- (Rupees Two Lakh Fifty Four Thousand Seven Hundred Forty Nine only) is due from the Builder to Ms.Madhumita. Due to non-payment from builder she is now placed in greater financial hardship and paying interest from her account, hence relief sought for reimburse the total dues along with interest and damages. Further legal notice was served on 06-09-2018 seeking for reimbursement of dues to Ms.Madhumita, but there is no response from M/s. Skylark Builder for the legal notice. Further the Builder that is Skylark committed to give possession in the Month of September 2017, but till date they have not provided the possession of the Flat in project Skylark ITHACA and this has impacted Ms.Madhumita by paying additional Rent and also Interest for borrowed amount from bank. With all the above facts, Madhumita have not left any other option other than approaching this Authority.

Relief Sought from RERA : Respondent to release Pending dues & damages

2. The case was called for hearing after the complaint got registered with RERA. On 09/10/2018, when the case was called complainant was present through his counsel and the developer appeared through his counsel. The respondent filed his objection statement. After hearing the parties the case is reserved for orders

Done
[Signature]

3. The complainant is seeking the relief of clearing all the due EMI along with interest. The developer denying the case of the complainant on the ground that the complainant did not pay the instalment as agreed. The developer has also submitted that the complainant is not entitled to claim the benefit of the pre - EMI scheme or subvention scheme since the complainant has failed to make payment properly. In this regard I would like to say that there is a separate procedure to be taken by the developer against the consumer who pays the instalment irregularly.
4. The complainant has submitted before the Authority stating that the developer has not paid the EMI since January 2017. The developer has given a chart showing the irregular payment of instalments.
5. The developer has shown his clear intention to proceed with the project, but his prayer is to clear the dues by the developer. As per the discussion made by me as above the developer should clear all the dues.
6. As per S.71(2) RERA, the complaint shall be closed within 60 days from the date of filing. This complaint was filed on 24/09/2018. As per the SOP the 60 days to be computed from the date of appearance of parties. In this case the parties have appeared on 09/10/2018. After hearing the parties it was reserved for judgment. Hence there is no delay in closing this complaint. With this observation I proceed to pass following order.

ORDER

- a) The Complaint No. **CMP/180924/0001310** has been allowed by directing the developer to clear all the EMI's on or before 31/12/2018. Further to pay interest in case, the consumer was forced to pay interest on the arrears of Pre-EMI.
- b) Further the developer is directed to make each EMI regularly commencing from January 2019.
- c) The complainant is directed to make payments of instalments regularly or to adjust the same with the EMI payable by the developer.

Intimate the parties regarding the Order.

(Typed as per Dictated, Verified, Corrected and Pronounced on 04/12/2018)

(K.PALAKSHAPPA)

Adjudicating Officer