

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**  
**PRESIDED BY SRI I F. BIDARI**  
**DATED 18<sup>th</sup> MARCH 2021**

<b>Complaint No.</b>	<b>CMP/200908/0004296</b>
<b>Complainant:</b>	Miss. Madhu Garg D/o Sham Lal Flat number G6, Kanak Residency, 30, 8th cross, 2nd Main, Roopena Agrahara, Near Silk Board, Bengaluru – 560 068 (In Person)
<b>Respondent:</b>	Sri. Ramesh Chandra Jain M/s J S Builders, H. No 3-3-994, Kutbiguda, Telangana, Hyderabad - 500027

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

1. Miss. Madhu Garg D/o Sham Lal (here-in-after referred as complainant) has filed this complaint bearing no. CMP/UR/200908/0004296, under Section 31 of the Real Estate (Regulation and Development) Act 2016 (here-in-after referred as Rera Act) against the Sri. Ramesh Chandra Jain, Promoter (here-in-after referred as Respondent) of Kanaka Residency Project seeking relief of full refund with interest compensation for torture, humiliation, losses, grief, they underwent since April 2018.

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2. The brief facts of the complaint are as under:

The complainant has purchased the flat in Kanaka Residency (here-in-after referred as Project) being developed by the promoter. The complainant is residing with her old aged father in the said flat. The father of the complainant has got skin infection and tumour in head. The complainant has paid full payment of the flat trusting the builders. The builder's servants, building men & women are harassing complainant & her old age father. There is a water leakage in the flat of the complainant, since beginning due to structural defect. The builder effected repair at the first instance, after abusing & harassing her. There-after again there was a leakage in the apartment and only on request of DCP, builders tried fixing damage but in vain. The builders told the police that it is not possible to repair, but not refunded any money. The builder has constructed 10 flats extra, so there is no OC. The complainant was promised bigger exclusive parking but later builder cheated, builder servants harassed and shouted at her and allotted smaller parking. There is a physical threat, shaming, mob group, barking to threaten, humiliate, disturb complainant & her father, forcing them to vacate from flat. The complainant has not been included in building association. The building in-charge appointed by the builder forcing her to give him double money which she refused. The said building in-charge and other rowdy type men-women would sham, abused, threaten them every day and building in-charge

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even physically threaten, complainant inside police station, in front of Police Inspector. The aforesaid people of the builder once locked her father 2 hours and subsequently second time for a period of 3 hours in the lift. Thus, the builders and their people are physically and mentally harassing complainant & her father. This apart the said people are throwing garbage in-front of window and in balcony and all sides of her flat. Neighbors have blocked corridors by their personal storage, cleaning tools etc., which causes interference in the enjoyment of flat. The builder did give basic documents such as payment receipt of Rs. 6.5 lakhs after 15 months, after grand harassment. There is no Cauvery water connection till date. The complainant not permitted access to building What's App group and no access given to association meeting even after her many requests, as such, they be directed to refund her money with compensation so that herself and her father can be free from hell. The complainant making all efforts to sell out her flat but because of aforesaid acts of the builder and his people she is unable to sell. The complainant has paid Rs. 40,50,000/- to the builder on 03-05-2018 and Rs. 2,50,000/- on 03-05-2018 towards registration charges. The complainant has loss of job of 1.5 years due to aforesaid disturbance. Therefore the complainant filed this complaint seeking relief as sought in the complaint.

3. There-after receipt of the complaint from the complainant, notice was issued to the respondent. The respondent has not appeared in-spite of service of notice.



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4. I have heard the complainant through Skype who appeared in person. The argument on behalf of respondent taken as nil. Perused the records and the materials placed on record.
5. The points that would arise for consideration are:
  - (1) Whether the complainant is entitled for refund of amount? If so, to what extent?
  - (2) What order?
6. My findings on the above points are as under:  
Point No. 1: Yes, to the extent as shown in the final order.  
Point No. 2: As per final order, for the following:-

**REASONS**

7. Point No.1: The complainant during argument submitted almost similar grounds alleged against the respondent builder in the complaint. The complainant during her argument has drawn the attention of the authority to the documents produced in support of her case. The copy of the registered absolute sale deed dated: 03.05.2018 evidences that the complainant along with her father Mr. Sham Lal has purchased a flat bearing No. G-6 on ground floor, having super built area of 1,030 Sq.ft., along with 215 Sq.ft., of undivided share of land, for consideration of Rs. 34 Lakhs constructed in the project Kanaka Residency, being constructed on amalgamated BBMP property Khatha No. 526/30/52 in land measuring 10412 Sq.ft., from their



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vendors. The respondent in the instant complaint is shown as Managing Partner of M/s. J.S. Builders. The vendors 1.Mr. K.R. Bhandari and 2. Mr. Kamal Bhandari through their GPA holder Ramesh Chandra Jain as a first part and said J.S. Builders represented by its Managing Partner Mr. Ramesh Chandra Jain as a second part have executed the aforesaid sale deed in-favour of complainant and her father. The copy of confirmation letter signed by the Managing Partner authorised signatory for J.S. Builders issued in the name of complainant and her father evidences that complainant and her father have purchased the flat mention in aforesaid sale deed for consideration of Rs. 40,50,000/- out of which Rs. 34,00,000/- was shown in the sale deed and the balance amount of Rs. 6,50,000/- considered as additional work and alterations done in said flat. It also discloses that vendors handed over flats to the complainant and her father on 03.05.2018. The copy of Khatha Form-B Property Register issued by the BBMP and copy of Property Tax Receipt issued by the BBMP evidences that the flat in question is being recorded in the name of complainant and her father and they are paying taxes to the BBMP. The copy of EC also stands in the name of complainant and her father. The copies of conversations of What's app with many people including builder's people and tenants of neighbouring flat etc., are produced. The copies Mobile Screen Shots produced disclose that complainant and her father are residing in flat in question. The materials on records disclose that father of the complainant is more than 70 years old. Admittedly the respondent builder remained absent in-spite of service of notice and contesting the

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complaint, under the circumstances there is no reason to disbelieve or discard the version of the complainant as the above discussed documents corroborate the contention of the complainant that she along with her father have purchased the flat in question and residing there-in.

8. The copy of FIR No.: 302/2019 Dt. 08.12.2019 of Bommanahalli Police Station registered against accused No.1 Naveed and others for the offences punishable under sections 323, 341, 504, 506, R./w Sec.34 of IPC and the copy of the complaint of the complainant disclose that the alleged accused persons named there-in are abusing, harassing the complainant and her father in the flat. The complainant has produced the acknowledgements copies of NCR No.: 58/2019 Dt. 06.03.2019, DP No.: 344/2019 Dt. 19.09.2019, NCR No.: 70/2019, Dt. 27.03.2019, DP. No.: 87/2019, Dt. 17.03.2019, and DP. No. : 10/2020, Dt. 04.01.2020, respectively and copies of respective applications of complainant, registered in Bommanahalli, PS., leads to the probability that the builder's people including some of the neighbourers of the flat of the complainant are subjecting the complainant and her old aged father to mental & physical harassment. This version of the complainant is to be believed as a respondent not at all questioned this fact filling objections as he remained absent in-spite of service notice.
9. The complainant has produced copy of building approved plan. The complainant has produced the mobile screen shots pictures, to show that the builder has illegally constructed some more flats than sanctioned plan. The complainant is

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contending that OC has been not issued to the project because of such illegal construction. Since, responded builder has not contested the matter and questioned this version of complainant under the circumstances this authority is constrained to hold that there is substance in the said contention of the complainant. Therefore, this authority is constrained to hold that the builder respondent has not obtained OC and not handed over the same to the complainant and her father. The materials on record disclose that because of construction defect in the flat of the complainant there is a leakage of water. The above discussed documents and materials on record support the version of the complainant that she has made all possible efforts to get repair the water leakage in the flat in as much as approaching the builder's people but in vain. The materials on records disclose that the efforts of complainant to sell the flat to the third party has not been materialised because of water leakage in the flat and the alleged acts of the builder's people. The complainant submits that as promised till date builder not provided Cauvery water connection to the flat as also cheated her not providing exclusive bigger car parking as promised. Therefore, this authority is constrained to hold that the complainant is entitled for refund of Rs. 40,50,000/- consideration amount of the flat paid to the builder with interest @ 2% of above MCLR of the SBI on the said amount from 03.05.2018 till realization, as the builder has contravened the provisions of the Sec. 12, 14, 18 & 19 of the RERA Act. As already discussed above materials on record proves that the people of the builder is harassing the





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complainant and her father. This apart because of the water leakage in the flat the complainant and her father are suffering mental pain and agony as such it is just to direct the builder respondent to pay Rs. 1,00,000/- compensation to the complainant towards mental pain & agony.

10. The complainant has not produced materials to show that she was earning Rs. 2,00,000/- per month doing job and also not produced documents to show that what nature of job she was doing and in which firm or department she was working, and how many days she has suffered loss of such job because of the harassment of the builder's people. Therefore, complainant is not entitled for compensation for loss of income because of alleged loss of her job for a period of 1.5 years much less as contended in the complaint.
11. Thus, I hold complainant is entitled for refund amount with interest and compensation for mental pain and agony as discussed above. Accordingly I hold this point No.1 for consideration.
12. As per the provisions contemplated U/sec. 71(2) RERA Act the complaint shall have to be disposed off within 60 days from the date of receipt the complaint. The instant complaint has been filed on 08.09.2020, thereafter notices issued directing the parties to appear through Skype for hearing as because of COVID-19 pandemic the personal hearing before the Adjudicating Officer not yet commenced. The respondent failed to appear in-spite of service of notice and in-spite of affording



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the reasonable opportunity to contest the case, as such, the Judgments is being passed on merits, with some delay.

13. In view of my findings on point No.1, I proceed to pass the following:-

**ORDER**

- (i) The complaint filed by the complainant bearing No.: CMP/200908/0004296 is partly allowed.
- (ii) The respondent builder is hereby directed to return Rs. 40,50,000/- with interest @ 2% above the MCLR of SBI on the said amount to the complainant, commencing from 03.05.2018 till payment of entire amount.
- (iii) Respondent is directed to pay Rs. 1,00,000/- without interest to the complainant as compensation towards mental pain & agony.
- (iv) The complainant is hereby directed to execute the cancellation of sale deed in-favour of the vendors and builder's mentioned in absolute sale deed Dt. 03.05.2018 after realization of entire amount as per this order.
- (v) The respondent builder is directed to pay Rs. 5,000/- as cost of this petition to the complainant.
- (vi) The complainant may file memo of calculation as per this order after 60 days in case respondent builder failed to comply with the same to enforce the order.

Intimate the parties regarding this order.

(Typed to my dictation directly on the computer by the DEO, corrected, verified and pronounced on 18.03.2021)

**I.F. BIDARI**

Adjudicating Officer-1

Amendment carried out as per order dated 28.06.2021, on memo dated 24.06.2021.

\*\*\*

Ramesh Chandra Jain,  
Managing Director & Signing Authority  
of JS Builders.

Flat numbers 502, 401, 403, 404, 108

Kanaka Residency,

Building number 30, 8<sup>th</sup> cross,

2<sup>nd</sup> main, Roopena Agrahara,

Bengaluru - 560063

  
[Adjudicating officer-1]

K - RERA