

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

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BEFORE ADJUDICATING OFFICER

PRESIDED BY SRI T.F. BIDARI

DATED 16th July 2021

Complaint No.	CMP/200823/0006406
Complainant:	Priyanka Sharma 477, Paschim Puri, Sikandra, Agra - 282007 (In Person)
Respondent:	Sobha Limited., Sarjapur-Marthahalli Outer Ring Road(ORR), Devarabisanahalli, Bellandur Post, Bengaluru - 560103 (By: Sri. N. Keshavmurthy, Authorized Signatory)

J U D G M E N T

Mrs.Priyanka Sharma (here-in-after referred as complainant) has filed this complaint bearing No. CMP/200823/0006406, under Section 31 of The Real Estate (Regulation and Development) Act 2016 (here-in-after referred as Rera Act) against the respondent Sobha Limited., (here-in-after referred as respondent) seeking relief of refund of blocking amount and compensation.

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

The complainant on 29.01.2020 blocked flat No.501402 at Sobha Dreams Acres, paying an online payment of

promised that said amount would be refundable within 30 days in case of cancellation. The respondent despite several demands through e-mails, telephone and whatsapp communication about the cancellation has not refunded back the blocking amount of Rs.1,00,000/. Therefore, the complainant filed this complaint seeking relief as sought in the complaint as there is delay in refund.

3. There-after receipt of the complaint from the complainant, notice was issued to the respondent. The respondent has appeared through its authorised signatory. The respondent has filed the statement objections contending that the complaint of the complainant is false. The Adjudicating officer (here-in after referred as AO) has no jurisdiction to entertain the complaint as the complaint does not fall within the provisions of Sections 12, 14, 18 & 19 of the RERA Act. There is no cause of action to file the complaint. The complainant on her own has cancelled the booking of the flat and not due to fault on the part of the respondent. The respondent has not violated the provisions of sections 12, 14, 18 & 19 of the RERA Act. The respondent had not promised to refund the blocking amount. These main grounds among others urged in the statement objections, prayer to dismiss the complaint with cost.

4. I have heard the complainant who appeared in person also heard Sri. Keshavmurthy Authorised Signatory of the respondent, on behalf of the respondent, through skype. The written argument has been filed on behalf of

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skype. The written argument has been filed on behalf of the respondent. Perused the records, materials and the written argument.

5. The points that would arise for consideration are:

- (1) Whether the complainant is entitled for the relief sought?
- (2) What order?

6. My findings on the above points are as under:

Point No.1: Partly in the affirmative.

Point No.2: As per final order, for following:-

REASONS

7. Point No.1: The complainant during argument submitted that subsequent to filing of the complaint she has received Rs.75,000/- from the respondent out of the booking amount of Rs.1,00,000/- and prayed to direct the respondent to pay remaining Rs.25,000/- booking balance amount with compensation by way of interest on booking amount of Rs.1,00,000/-. Sri N Keshavamurthy authorised signatory of the respondent submits that without prejudice to the contentions of the respondent, to maintain the good relationship with the customer, respondent has repaid to Rs.75,000/- to the complainant through cheque bearing No: 144340 Dt.: 22.12.2020 drawn on Axis Bank, in favor of complainant as full and final settlement of the dispute in this complaint, retaining Rs.25,000/- towards administrative charges and

the attention of the AO to the judgment in 70/2018 dated:19.08.2019 passed by the Hon'ble KAT Bengaluru in the case of M/s Mantri Developers Pvt.Ltd., V/s The K-RERA and another, with regard to power of AO U/sec 71 of the RERA Act. Admittedly the complainant is seeking compensation by way of interest on the booking amount along with booking amount as there is delay in repaying the same and not merely the refund of booking amount. The complainant through e-mail dated:21.02.2020 informed that the blocked flat does not suit their requirements, hence they are unable to confirm their selection and requested to refund the booking amount. This fact make it clear that for reason the complainant cancelled the booking amount of flat and sought refund of booking amount but respondent delayed the same hence sought the relief claimed in the complaint. Therefore it is made clear that there is a cause of action to the complainant to file the complaint and AO has jurisdiction to adjudicate with regard to compensation sought in the complaint. As rightly submitted by the authorized signatory and as indicated in the e-mail dated:21.02.2020 of the complainant, the complainant has cancelled the booking of the flat on her own and without default on the part of the respondent. The complainant has not produced materials to show that respondent had promised to repay the booking amount in case of cancellation of booking of the flat much less as contended by the complainant. Though the respondent is contending that he has not promised to refund the booking amount in the event of cancellation but

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respondent in as much as repaying Rs.75,000/- out of the booking amount, impliedly conceding that under law it is just to refund the booking amount but retained Rs.25,000/- out of the booking amount towards administrative charges and cancellation charges. As discussed above the complainant has cancelled booking of the flat voluntarily, on her own, without default on the part of the respondent under the circumstances the complainant is entitled for refund of the booking amount but without interest on the said amount. The respondent for having utilized the booking amount of the complainant is not justified in retaining remaining Rs.25,000/- balance booking amount towards administrative charges or cancellation charges. The complainant has already received back Rs.75,000/- out of the booking amount as such it is just to order return of remaining Rs.25,000/- balance booking amount but without interest. Thus, I hold point No. 1 partly in the affirmative for consideration.

9. 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 23.08.2020, 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 parties given the reasonable opportunities to contest the case, as such, the judgment is being passed on merits, with some delay.



10. Point No.2: 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/200823/0006406 is partly allowed.
- (ii) The respondent is hereby directed to pay Rs.25,000/- to the complainant towards balance booking amount of the flat but without interest, within 60 days from the date of this order, failure to which the respondent to pay interest on the said amount of Rs.25,000/- from the date of default @ 2% above the MCLR of SBI till payment of entire amount.
- (iii) The respondent is directed to pay Rs. 5,000/- as cost of this petition to the complainant.
- (iv) The complainant may file memo of calculation as per this order after 60 days in case respondent failed to comply with this order to enforce the order.
- (v) Intimate the parties regarding this order.

(Typed to my dictation directly on the computer by the DEO, corrected, verified and pronounced on 16.07.2021)


I.F. BIDARI

Adjudicating Officer-1



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp. No: 6406

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Priyanka Sharma
Shabha Dream Acres

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP-6406

12.03.2022

As per the request of the authorised person of the respondent the matter is taken up today before the Lok – Adalat. The complainant through requisition dated:18.09.2021 has requested to close the complaint as the respondent has satisfied the claim of the complainant in this case. Therefore the execution proceedings in the above case is disposed off and closed in the Lok – Adalat as settled. The revenue recovery warrant, if any, issued against the respondent in execution proceedings in the above case is hereby re-called. The office is hereby directed to issue intimation to the concerned revenue authority about the re-calling of revenue recovery warrant.

H. Kulkarni

[Signature]
Judicial Conciliator.

[Signature]
Advocate Conciliator.

D.D. 76/21
put of file

From:

Date: 18 September 2021

Priyanka Sharma
477, Paschim Puri, Sikandra
Agra, Uttar Pradesh-282007

To:

Sri. N. Keshavmurthy
Sobha Limited
Sarjapur-Marathalli Outer Ring Road, Devarabisanahalli,
Bellandur Post, Bangalore-560103

Subject: Compliance of Order dated 16th July 2021 passed by Karnataka RERA, Bangalore in respect of complain number CMP/200823/0006406.

Sir,

Reference is made to the subject complaint number and your letter dated 19th August 2021.

I hereby acknowledge receipt of cheque bearing number 868015, dated 13.08.2021 for an amount of Rs30,000/- (Rupees Thirty Thousand) drawn on Axis Bank as per the order passed by the Hon'ble Adjudicating Officer, Karnataka Real Estate Regulatory Authority, Bangalore.

Further, I am also in acceptance of Rs75,000/- vide cheque bearing number 144340, dated 22.12.2020.

I hereby thank RERA for passing the order and for the action taken by Sobha Limited towards full and final settlement of the complaint number CMP/200823/0006406 filed by me.

In view of the above, I accept my complaint stands closed.

Thanking you,

Regards

Priyanka.

Priyanka Sharma

Copy to:

The Adjudicating Officer,
Karnataka Real Estate Regulatory Authority
No, 1/14, Ground Floor, Silver Jubli Block, Unity Building,
C.S.I Compound Mission Road, Bangalore-560027

RERA-2879

