

BEFORE ADJUDICATING OFFICER
PRESIDED BY SRI I.F. BIDARI
DATED 17th July 2021

Complaint No.	CMP/200824/0005826
Complainant:	Srikanth Kondapally, G15, CBR Akshaya, 7 th Cross, L B, Shastry Nagar, HAL, Bengaluru – 560017. (In Person)
Respondent:	Sobha Limited., Sarjapur-Marthahalli, ORR, Bellandur Post, Bengaluru - 560103 (By: Authorized Signatory)

J U D G M E N T

Sri. Srikanth Kondapally (here-in-after referred as complainant) has filed this complaint bearing No. CMP/200824/0005826, 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 booking amount.

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

The complainant submitting the unit application dated:21.11.2019 did book unit No.P1-9162 (here-in after

referred as flat) in "Sobha Arena – The Square (Block – 4)" project paying an amount of Rs.1,00,000/-. The complainant alleged that he came to know that there is some litigation in connection with above project, as such, he has cancelled the booking of flat. The complainant has informed about the cancellation of the flat booking long back. The respondent has delayed refund of amount. 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 appeared through its authorised signatory Sri Prasad M.S. 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 his 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. As per clause 8 of unit application filed by the complainant, respondent is entitled to forfeit 1% of agreement value which comes to approximately Rs.1,12,700/-. It is contended that without prejudice to the contentions of the respondent, to maintain the cordial relationship with the customer, respondent has repaid to Rs.50,000/- to the complainant

✓

through cheque bearing No: 143936 Dated.: 18.11.2020 drawn on Axis Bank, in-favour of the complainant as full and final settlement of the dispute in this complaint, forfeiting Rs.50,000/- towards administrative charges and other costs. 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 Authorised Signatory of the respondent, on behalf of the respondent, through skype. Perused the records and materials.

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 he has received Rs.50,000/- from the respondent out of the booking amount of Rs.1,00,000/- and prayed to direct the respondent to pay remaining Rs.50,000/- 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 cordial relationship with the customer, respondent has repaid to Rs.50,000/- to the complainant through cheque bearing No: 143936 Dated.: 18.11.2020 drawn on Axis Bank, in favor of complainant as full and final settlement of the dispute in this complaint, forfeiting Rs.50,000/- towards administrative charges and other costs. The authorized signatory has drawn 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. The complainant submits that the compensation be awarded on his booking amount of Rs.1,00,000/- by awarding interest as there is delay in repaying the same. The complainant in the complaint alleged that he came to know that there is litigation with regard to project hence he cancelled the booking of flat and requested the respondent to refund the booking amount. The complainant during argument submitted the same. 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 as submitted by the complainant. As rightly submitted by the authorized signatory, the complainant has cancelled the booking of the flat on his own, unilaterally and without default on the part of the respondent. Though the respondent is contending that booking amount in question is liable to be forfeited as per clause 8 of the unit application submitted by the complainant, in the event of cancellation but respondent in as much as repaying Rs.50,000/- out of the booking amount, impliedly conceding that under law it is just to refund the booking amount but forfeited Rs.50,000/- out of the booking amount towards administrative charges and other costs. As discussed above the complainant has cancelled booking of the flat voluntarily, on his 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 forfeiting remaining Rs.50,000/- balance booking amount towards administrative charges or other costs. The complainant has already received back Rs.50,000/- out of the booking amount as such it is just to order return of remaining Rs.50,000/- 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 24.08.2020, 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/200824/0005826 is partly allowed.
- (ii) The respondent is hereby directed to pay Rs.50,000/- 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.50,000/- 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 17.07.2021)


I.F. BIDARI

Adjudicating Officer-1



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ Cmp No: 5826

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ Srikanth Kondapalli

Sobha Arena The Square (Block-4)

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP- 5826

17.10.2022

The execution proceeding in the above case is taken-up for disposal in then National Lok Adalat.

The authorised person of the respondent present and the complainant Sri. Srikanth Kondapally joined over phone call in pre Lok Adalat sitting held on 17.10.2022 and he has reported that the respondent/developer has complied the order passed in the above case and also has forwarded E-mail dated: 01.09.2022 in that regard. Therefore in view of the submission of the complainant, the execution proceedings in the above case have been closed as settled between the parties in the Lok Adalat. The conciliators to pass award.

17/10/22
Judicial Conciliator.

17/10/22
Advocate Conciliator.

CMP - 5826

12.11.2022

Before the Lok-Adalath

The execution proceedings in the above case taken up before the Lok-Adalat. The execution proceedings in the above case have been settled in pre Lok Adalat sitting held on 17.10.2022 and the email dated: 01.09.2022 forwarded by the complainant in the case is hereby accepted and the said email copy shall be part and parcel of the award. Hence, the execution proceedings in the above case stands disposed off as settled and closed in the Lok Adalat.


Judicial Conciliator.


Advocate Conciliator.

KARNATAKA STATE LEGAL SERVICES AUTHORITY

BEFORE THE LOK ADALAT

**IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU**

DATED: 12TH DAY OF NOVEMBER 2022

: CONCILIATORS PRESENT:

Sri: I. F. Bidari

..... Judicial Conciliator

AND

Smt. Preethi N

..... Advocate conciliator

COMPLAINT NO: CMP/200824/0005826

Between

Mr. Srikanth Kondapally

..... Complainant

AND

M/s. Sobha Limited.,
(Authorised Person)

.....Respondent

Award

The dispute between the parties with regard to execution proceedings having been referred for determination to the Lok Adalat and the parties having compromised/settled the matter, as per the email dated: 01.09.2022 forwarded by the complainant and complainant joined over phone call during the pre Lok Adalat sitting on dated:17.10.2022, same is accepted. The settlement entered between the parties is voluntary and legal one. The execution proceedings in the above case have been closed as settled between the parties. The email copy shall be part and parcel of the award.


Judicial conciliator


Advocate conciliator