

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-60027

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BEFORE ADJUDICATING OFFICER
PRESIDED BY SRI I.F. BIDARI
DATED 06th SEPTEMBER 2021

Complaint No:	CMP/200304/0005527
Complainant:	Harish Kumar Jayappa, Ilapura Village, Bagur Post, Hosadurga Taluk, Chitradurga - 577515 (By: Miss. B.C.Nayana & Associate Advocates)
Respondent:	Aryan Hometec Pvt Ltd., 609, 15 th Cross, JP Nagar 6 th Phase, Bengaluru - 560078 (Absent)

J U D G M E N T

Sri.Harish Kumar Jayappa (here-in-after referred as complainant) has filed this complaint bearing No. CMP/200304/0005527, under Section 31 of The Real Estate (Regulation and Development) Act 2016 (here-in-after referred as Rera Act) against the respondent Aryan Hometec Pvt.Ltd., (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 booking form dated: 21.07.2018 did book the unit No.E-907 (here-in after

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referred as flat) in "Aryam Hometec Pvt.Ltd.," project, paying an amount of Rs.1,83,680/- through a property consultancy named Square Yards. The booking amount has been paid through SBI NRE check no.471507 and the booking amount is deducted from the SBI NRI account of the complainant dated: 31.08.2018. The complainant presently is working in Muscat, Oman, NRI. The complainant alleged that he has cancelled the flat and requested the respondent to refund the booking amount. Since one year, the respondent has not responded to his request through calls and e-mails. Therefore, the complainant filed this complaint seeking relief of refund of booking amount with interest.

3. There-after receipt of the complaint from the complainant, notice was issued to the respondent. The respondent remained absent in-spite of service of notice.
4. I have heard Miss.B.C.S.Advocate for the complainant through skype. The respondent argument taken as nil. The written argument is filed on behalf of the complainant. 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:



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Point No.1: In the affirmative.

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

REASONS

7. Point No.1: The copy of booking form dated:21.07.2018, copies of sale agreement, construction agreement both dated:15.11.2018, copy of Tripartite Housing Loan agreement entered between complainant, respondent and M/s India Bulls Housing Finance Ltd., copy of receipt dated:08.12.2018 issued by the respondent having received Rs.1,83,680/- from the complainant towards booking amount through SBI Check No.471507 dated:21.07.2018, copies of e-mails exchanged between the parties etc., are produced along with written argument. Miss.B.C.S. Advocate for the complainant submits that subsequent to booking of flat parties have entered into agreement of sale and construction agreement dated:15.11.2018, as also Tripartite agreement of the sale date but because of attitude of the respondent and the Square Yards property consultant complainant being disappointed and lost his belief in them has cancelled the booking and through e-mail dated:18.07.2019, requested the respondent to refund the booking amount with interest but in vain, hence instant complaint has been filed and prayed to grant the relief as prayed. These facts are also mentioned in detail in written argument. The copy of booking form dated: 21.07.2018, copies of sale agreement, construction agreement both dated:15.11.2018, copy of Tripartite

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Housing Loan agreement dated:15.11.2018, entered between complainant, respondent and M/s India Bulls Housing Finance Ltd, copy of receipt dated:08.12.2018, issued by the respondent having received Rs.1,83,680/- from the complainant towards booking amount discloses that the complainant having paid the booking amount of Rs.1,83,680/- has entered into agreement of sale and construction agreement with respondent where under agreed to purchase undivided share to the extent of 286 sq.ft, in converted schedule A immovable property, on which flat No.E-907 in block No.E, on 9th floor, measuring 1025 sq.ft, in the project building for consideration amount mentioned therein. The copy of tripartite agreement dated: 15.11.2018, discloses that parties with India Bulls have entered for home loan to purchase the aforesaid flat in the project. Admittedly the respondent remained absent in-spite of service of notice and the version of complainant remained unchallenged, which is being corroborated by the aforesaid documentary evidence. There is no reason to disbelief or discard the version of the complaint. The complainant is contending that he being lost belief in the respondent and its property consultant because of their attitude has cancelled the booking of flat and seeking refund of booking amount with interest. Under the circumstances the complainant is entitled for the relief sought. Thus, I hold point No. 1 in the affirmative for consideration.

8. As per the provisions contemplated U/sec. 71(2) RERA Act the complaint shall have to be disposed off within 60



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days from the date of receipt the complaint. The instant complaint has been filed on 04.03.2020, 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 appear and contest the case, as such, the judgment is being passed on merits, with some delay.

9. 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/200304/0005527 is allowed against respondent.
- (ii) The respondent is hereby directed to refund Rs.1,83,680/- to the complainant towards booking amount of the flat with interest @ 2% above the MCLR of SBI, from 31.08.2018 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 06.09.2021)


I.F. BIDARI

Adjudicating Officer-1

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