

ಕರ್ನಾಟಕರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH - 4

Dated 18th April 2022

CMP/210719/0006028

UMAMAHESWARARAO AKULAL,

.....Complainant

NO 46011, Wing 46,
Sobha Dream Acres,
Panathur Main Road,
Bengaluru – 560087.

V/S

SHOBHA LIMITED.,

.....Respondent

Sarjapur-Marthahalli
Outer Ring Road,
Bellandur Post,
Bengaluru-560103.

This complaint is filed under Section 31 of the RERA Act against the promoter Sobha Limited for their project namely “Sobha Dream Acres – Tropical Greens Phase 10 Wing 46”, situated at Sy. No. 47/2 – 77/10 of Balegere, Varthur Hobli, Bengaluru. This project is registered with RERA, Karnataka bearing registration No. PRM/KA/RERA/1251/446/PR/170915/000206.

The brief facts of the complaint are that the promoter Shobha Dream Acres has created vehicular parking in areas which are not designated as such. The complainant prays that these visitors parking areas should be removed and garden should be grown.



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Earlier, this complaint was being heard by Adjudicating Officer.

However, in pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No (s) 6745-6749 of 2021 M/s. Newtech Promoters and Developers Pvt. Ltd., the complaint has been transferred to Authority for hearing and disposal.

The case was heard on 11/04/2022. The complainant and respondent promoter were present.

During the hearing the complainant reiterated what was stated in the complainant and urged the surface visitors parking areas which is not earmarked, should be kept as such and not visitors parking as it affects the peaceful area of the residents of the apartments.

The respondent promoter has argued that the complainant in the Agreement for Sale dated 09/08/2017 at Clauses 6.2 has specifically agreed the right of this respondent in earmarking and allotting the car parking spaces and further agreed and undertook not to question or raise any objections of whatsoever nature in earmarking of such car parking spaces. The clause 6.2 is reproduced herein below:-

"6.2: The vendor cum developer have the right to demarcate garden areas, terrace areas, parking areas in the basement and on restricted limited common areas out of the available common areas and to allot those areas to specific apartment for their exclusive use and enjoyment. However, such allottee will not have any right to put up any construction in those allotted common areas. The purchaser if not the allottee of such area shall not in any manner object to or obstruct the use of those exclusive areas."

Similarly, the respondent also had disclosed in the said Agreement for Sale at clause 9 that, they have reserved and earmarked certain areas



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for the purpose of park, open space and erection of sub-station. Hence, the demand of the complainant to remove the visitors parking space and to provide garden in its place is highly mischievous and would amount to deviations from the project scheme, which cannot be done.

The respondent also has invited reference to condition No. 5 of Occupancy Certificate issued by BBMP vide No. BBMP/Addl.Dir/JD NORTH/LP/0455/2014-15 dated 31/01/2020.

Condition No.5 is as under:-

"Other than the facilities in the basement and surface area, the two Basement Floors area and surface area should be used for car parking purpose only and the additional area if any available in two basement floors area and surface area shall be used exclusively for car parking purpose only."

This apart, during the hearing both the complainant and respondent have confirmed that the complainant is an allottee and is residing in the Apartment Unit No. B2-46011. They have also confirmed that the project is completed and that Occupancy Certificate is obtained from BBMP which is referred above. There is a registered Association of allottees and after completion of project, the common areas vests with the Association so far as maintenance and usage is concerned.

The surface area which is not specifically earmarked becomes the common area of the promoter.

Common area is defined in Section 2(n)(iii):-

"The common area means- The common basements, terraces, parks, play areas, open parking areas and common storage spaces;"



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Further Section 11(4) entitles the promoter to perform certain obligations in fulfillment of the obligations required to be performed by the promoter. The promoter has handed over the common area to the Association of allottees.

“(a) The promoter shall be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be: Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

(b) The promoter shall be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;

(c) The promoter shall be responsible to obtain the lease certificate, where the real estate project is developed on a leasehold land, specifying the period of lease, and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees;

(d) The promoter shall be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees;

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(e) The promoter shall enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable: Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;

(f) The promoter shall execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;"

It is for the Association to decide the manner and use of the vacant place in the surface area. The complainant can take up his grievance with the Association and it is for the Association to decide and such matter which fall under the definition of common areas.

Hence, the following order is passed.

ORDER

Based on the facts of the case, it is hereby ordered that the Association shall decide on the use of the vacant area on the surface which is a common area. The complainant can take up his grievances with the Association. The case is disposed accordingly.



(H.C. Kishore Chandra)

Chairman

K-RERA

UNITED STATES DEPARTMENT OF AGRICULTURE

Report of the Director of the Bureau of Plant Industry
for the year 1911

The Bureau of Plant Industry was organized in 1889, and since that time has been engaged in the study of the diseases and insects of plants, and in the introduction of new and improved varieties of plants. The Bureau has been successful in its work, and has been instrumental in the eradication of many of the most destructive plant diseases and insects. The Bureau has also been successful in the introduction of many new and improved varieties of plants, and in the study of the diseases and insects of plants.

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W. L. Rouse

Director of the Bureau of Plant Industry

Washington, D. C.

1912